



Town of Machias

Commercial Solar Energy Systems Ordinance



Section 1. Title

1.1. This ordinance shall be known and may be cited as the “Commercial Solar Energy System Ordinance of the Town of Machias, Maine” and will be referenced herein as this “Ordinance.”

Section 2. Authority

2.1. This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of 30-A M.R.S. § 3001 (Home Rule); and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S. §§ 4312, et seq.

2.2. Due to the nature of Commercial SES projects, the Machias Planning Board may hire independent professional consultants to review Commercial SES applications to determine any impacts to nearby properties, potential public safety implications, or address any concerns with a Commercial SES application. If any costs are associated with such consulting services, they shall be covered by the applicant. The Planning Board will notify the applicant of the consultant’s name and address, along with the reason for the consultation, and an estimation of the expected cost.

Section 3. Purpose and Intent

3.1. The purpose of this ordinance is to establish a municipal review process for procedures and performance standards for Commercial Solar Energy Systems in the Town of Machias (“Town”). These standards are intended to:

- A. Establish guidelines, standards, and time frames for the Towns to regulate Commercial SES projects.
- B. Regulate the location of Commercial SES projects.
- C. Mitigate potential adverse impacts of commercial SES on surrounding property values.
- D. Protect public health, safety, and welfare.

- E. Protect the Town's scenic and natural beauty, wildlife habitats, freshwater and coastal wetlands, and other valued geographic characteristics by regulating the development of Commercial SES projects.
- F. Protect historical and archaeological sites.
- G. Control and protect groundwater resources, protect drinking water supplies, provide adequate and safe subsurface wastewater disposal, and prevent water pollution.
- H. Prevent and minimize soil pollution.
- I. Provide for the complete decommissioning of Commercial SES facilities at the end of their useful life.

Section 4. Definitions

Abutter/Abutting Property: A person who owns property that adjoins the delineated project site property boundary, including owners of property directly across a public or private way.

Array: A grouping of multiple solar modules with the purpose of collecting solar energy.

Commercial Solar Energy System (Commercial SES): A solar energy system used by a property owner and/or corporate entity where the primary purpose of the system is to capture solar energy, convert it into electrical energy or thermal power, and supply electrical or thermal power primarily or solely for the electrical grid for the purpose of generating income from the power produced for off-site consumption.

Electromagnetic and Radiofrequency Radiation (EMFR): All known EMFR fields commonly referred to as, including but not limited to, electromagnetic fields, electric fields, magnetic fields, radiofrequency radiation, radiofrequency microwave radiation, dirty electricity, ionizing radiation, non-ionizing radiation, and power frequency ELF from both wired and wireless apparatus and technologies.

Electromagnetic Field (EMF): Invisible lines of force created whenever electricity is generated or used. EMFs are produced by power lines, electric wiring, and electric equipment and appliances. The frequency of EMFs is measured in hertz (Hz, or cycles per second).

Electromagnetic Radiation (EMR): Electrical and magnetic energy emitted by various types of energy sources, such as radio waves, microwaves, light, x-rays, and nuclear energy and sometimes expressed or measured in photons (particles) or as waves.

Extremely Low Frequency (ELF): The ITU designation for electromagnetic radiation (radio waves) with frequencies from 3 to 30 Hz, and corresponding wavelengths of 100,000 to 10,000 kilometers, respectively. In atmospheric science, an alternative definition is usually given, from 3 Hz to 3kHz.

Kilowatt (kW): A unit for measuring power that is equivalent to 1,000 watts.

Megawatt: A unit for measuring power that is equivalent to 1 (one) million watts, or 1,000 kW.

Megawatt Hour (MWhr): A megawatt hour is equal to 1,000 kilowatt hours (kWh). It is equal to 1,000 kilowatts of electricity used continuously for one hour.

Off-Grid Solar Energy System: Solar panel(s) or solar energy systems that are not integrated with the utility grid power system.

Person: A natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer, or employee thereof. "Person" does not include any governmental organization.

Pure Tone: The simplest periodic sound, which is a constant sound created as a pressure disturbance that fluctuates sinusoidally at a fixed frequency.

Private Solar Energy System: A solar energy system where the primary purpose is to generate power for on-site personal residential or business use.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Solar Energy: Radiant energy (direct, diffuse, and/or reflective) received from the sun.

Solar Array: A grouping of multiple solar modules with the purpose of harvesting solar energy.

Section 5. Applicability

- A. This ordinance applies to the entire town of Machias, meaning any and all property located within its designated boundaries.
- B. This ordinance shall not apply to Private Solar Energy Systems where the primary purpose of the system is to generate power for residential or local business use.
- C. This ordinance shall apply to all proposals for new Commercial SES projects, including new structures and any physical modification, such as enlargement or improvements of existing Commercial SES
- D. Any Commercial SES project proposal approved for construction prior to the effective date of this ordinance shall not be required to meet the terms and conditions of this Ordinance.

- E. Routine maintenance or the installation or replacement equipment for the Commercial SES does not require a permit unless the planned work increases the power generating capacity of the facility.

Section 6. Administration

6.1. The Planning Board is authorized to review all applications for Commercial SES and may approve or deny such applications in accordance with this Ordinance.

6.2. The applicant may request a pre-application meeting with the Planning Board at the start of the process. The purpose of the pre-application meeting is for the applicant to present general information regarding the proposed commercial SES facility to the Planning Board and to seek feedback and comments prior to submitting a completed application. While not required, a pre-application meeting is recommended to avoid the unnecessary expenditure of funds for surveying, soil testing, and other project-related expenses without the necessary information.

- A. The applicant may present a preliminary sketch plan and make a verbal presentation regarding the site and details of the proposed SES facility.
- B. Following the applicant's presentation, the Planning Board may ask questions and provide suggestions and/ or feedback to be considered by the applicant.
- C. The Planning Board may consider whether an on-site inspection is advised and can, at that time, schedule and notify the public of the inspection's date and location.

6.3. The Commercial SES initial development project and any subsequent modification project are subject to a permit fee of \$1.00 per kW of design power generation capacity.

After an application has been submitted but before the Planning Board has granted final approval, an applicant may submit modifications to the application materials. For purposes of this section, a "modification" means any change, correction, or updated information submitted during the review process and prior to final approval.

The Planning Board shall determine whether a modification is:

A. Minor, meaning it does not materially change the layout, scale, environmental impacts, or compliance with the performance standards of this ordinance. Minor modifications may be reviewed and approved without requiring additional public notice.

B. Major, meaning it alters the project's footprint, layout, impacts, or compliance in a way that could affect abutters, screening, noise, setbacks, stormwater, or other required standards.

Major modifications shall be reviewed as a Revised Application under Section 6.12

Application and Permit Fees are as follows:

Ground Space Definition	Power Definition	Application Fee	Permit Fee
More than 2 acres but not more than 25 acres	>500 kW	\$2500	\$1.00per kW
Up to 2 acres	< 500 kW	\$500	\$1.00per kW

6.4. A complete application with corresponding application fees must be filed with the planning board for review before any activity to which this ordinance applies may commence.

6.5. A code enforcement officer (“CEO”) inspection form must accompany each permit application. A CEO fee of \$150 must accompany each application and is to be made payable to the town of Machias in order to obtain a certificate of compliance inspection. Applications will not be considered if the applicant has not paid the CEO fee and obtained a certificate of compliance from the CEO.

6.6. Certain Commercial SES projects may require additional Federal and State permits, including but not limited to Site Location of Development (3 M.R.S. §§ 481-490), and Permit By Rule (NRPA). All additional permit applications and approvals shall be submitted to the Planning Board before the building permit is approved.

6.7. Upon the completion of the application, the Planning Board shall schedule a meeting for consideration of the application and provide meeting details to the applicant.

6.8. The Planning Board shall post notices of the public meetings where the project is discussed at least 7 days prior to the meeting.

6.9. The Planning Board may decide to hold a public hearing on the proposal within thirty (30) days of the receipt of the completed application if deemed necessary.

6.10. The Planning Board shall hold a public hearing if said hearing is requested by one or more abutting property owners within thirty (30) days of application submission.

6.11. Within thirty (30) days of a meeting for consideration of an application, the Planning Board shall either approve, approve with conditions, or disapprove the application. Review deadlines may be extended in the event that the Planning Board and the applicant reach a mutual extension agreement. If the Planning Board fails to act within said timeline or the parties fail to agree to a mutual extension of said deadline, the application is deemed denied.

6.12. Should a proposed Commercial SES project fail to meet the standards in this Ordinance, an Applicant may modify the system and amend the application to propose an alternative site on the original lot, where the project may comply with applicable standards. If the Planning Board

determines under Section 6.3 that a proposed modification constitutes a major modification, the applicant shall submit a Revised Application.

A Revised Application shall be processed as follows:

A. New Notice Required: Abutters and the public shall be notified consistent with Section 6.2.

B. New Review Cycle: The Planning Board shall review the Revised Application as if it were a new submission, limited to the areas affected by the modification.

C. Additional Materials: The Board may require updated plans, impact statements, or studies necessary to evaluate the modification.

D. Waivers: Waivers under Section 8 may be applied to submission requirements for the Revised Application but shall not be used to waive safety or performance standards.

E. Final Approval: Only the revised portions of the application are reopened; previously approved portions remain in effect unless the modification affects their compliance.

Section 7. Standards

7.1. To approve an application, the Planning Board must make a positive finding that the applicant meets each of the following criteria, either with or without conditions:

- A. Maintain scenic views – All reasonable efforts shall be made to ensure that commercial SESs are visually consistent with the character of the community.
- B. Archaeological sites – Any proposed land use activity involving structural development or soil disturbance shall be reported to the Maine Historic Preservation Commission for review by the applicant at least thirty (30) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to reaching a decision on the application.
- C. Lots and Coverage – Commercial SESs shall not cover more than twenty-five (25) acres and shall not exceed 20% coverage of any lot. Lot coverage shall be based on the total Commercial SES structure surface area on and/or projected over the ground. The lot size and boundaries shall be determined and mapped by a Maine-licensed surveyor.
- D. Legal Responsibilities – The applicant must provide proof that it has authorization to construct, use, and maintain the property, and any access drive for the life of the project, including decommissioning. If the project site is leased, the lease term must cover the life of the project, including decommissioning. During the life of the project, the property owner is jointly and severally liable for the implementation and decommissioning plans. The applicant shall build and maintain any structures, equipment, and facilities in compliance with all relevant Federal, State, County, and Municipal laws, regulations, and ordinances.

- E. Communication – The applicant shall identify a responsible person to address and respond to public inquiries throughout the duration of the Commercial SES project.
- F. Deed registration – A notice of the Commercial SES decommissioning requirements for the property shall be recorded with the Washington County Registry of Deeds within thirty (30) days of Commercial SES operation.
- G. Setback – All Commercial SES structures shall be set back a minimum of one hundred fifty (150) feet from all lot lines.
- H. Prohibited locations – All commercial SES should be located to ensure access without reliance on and/ or interference with adjacent properties. Commercial SES structures or equipment shall not be placed within any legal easement or active right of way, within any stormwater conveyance system, or in any location that would alter or impede the operation of any stormwater conveyance system. A Commercial SES is not permitted within the shoreland zone nor within two hundred and fifty (250) feet of state Route 1 or ¼ mile within the Bold Coast National Scenic Byway within Machias.
- I. System types and locations – Only ground-mounted photovoltaic Commercial SESs will be permitted in the Town. All other Commercial SES system types are prohibited, including but not limited to systems built on or in waterways or waterbodies, or air collector systems.
- J. Equipment – Electrical equipment must have an Underwriters Laboratories or equivalent listing.
- K. Utility Notification – Grid-integrated commercial SESs shall not be approved by the Planning Board until evidence has been provided to the Planning Board that the applicant has an agreement with the utility to accept the power.
- L. Fence – Commercial SESs shall be protected by a well-constructed perimeter security fence at least eight feet in height. Such fences shall be raised six inches above the ground to allow for wildlife passage.
- M. Signage – Clear and visible signage shall be installed, which identifies the Commercial SES operator and provides a 24-hour emergency contact phone number. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers, substations, and any fence surrounding the commercial SES informing individuals of potential voltage hazards. Signs should be posted at distances of every twenty-five (25) feet and shall not be used to display advertising of any kind.
- N. Physical screening – Commercial SESs shall be screened from view of adjacent properties, roads, public ways, and waterways to the greatest extent practical using existing vegetation, supplemental plantings, berms, or natural topography. To the maximum extent reasonable, existing vegetation shall be preserved to provide screening.
- O. Glare – Commercial SESs shall be situated and constructed in a way that eliminates concentrated glare visible from other properties, abutters, roadways, scenic areas, airports, aircraft, waterways, and waterbodies.
- P. Noise – Any noise generated by the Commercial SES shall not be more than ten (10) decibels greater than the ambient noise level measured prior to construction, nor should it be a pure tone at the property line. This decibel level must be used as the standard noise

level at all property lines, public roads, and public right-of-ways, or any coastal or inland shoreline.

- Q. Height restrictions – Commercial SES solar photovoltaic cells or arrays shall be subject to a maximum height of eighteen (18) feet above the ground surface when oriented at maximum tilt. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.
- R. Lighting – Commercial SES lighting shall be limited to that required for safety and operational purposes and be shielded to the maximum extent possible from visibility at abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution. Other than required lighting, lighting shall not be used between the hours of 8:30 p.m. and 7 a.m.
- S. Stormwater management – Commercial SES developments shall have stormwater management systems designed by a Maine-licensed engineer for both pre- and post-development conditions. Components of Commercial SESs must not be located as such that storm water runoff could negatively impact an adjacent water supply (e.g., domestic wells or septic systems).
- T. Utility connections – Reasonable efforts shall be made to place all utility connections for the Commercial SES underground, depending on appropriate soil conditions, shape, and topography of the site, and any requirements of the utility provider. Electrical transformers for utility interconnections may be above the ground if required by the utility provider.
- U. Emergency services – The applicant shall provide a copy of the development project plan, electrical schematics, and site plan to the Fire Chief.
 - (1) The applicant shall coordinate with the Fire Chief and any local emergency services to develop an emergency response plan.
 - (2) A 3200 series KNOX BOX, or acceptable equivalent, shall be provided and installed by the applicant to be used to provide emergency service personnel access. All means of shutting down powered systems must be clearly marked.
 - (3) The applicant or operator must provide emergency action training to Machias emergency services personnel upon start of operations and at least once every three years to the satisfaction of the Fire and Ambulance chiefs.
- V. Fire safety – Commercial SES solar photovoltaic systems shall be installed in compliance with the photovoltaic systems standard of the latest edition of the National Fire Protection Association (NFPA 1) adopted by the Town. All wiring shall be installed in compliance with the photovoltaic systems standard of the latest edition of the National Electrical Code (NFPA 70) adopted by the Town.
- W. Electromagnetic and Radio Frequency Radiation Emissions (EMFR) – Emissions of any frequency from Commercial SES operations greater than 1 MW AC in capacity shall be minimized within the limits established by the International Commission on Non-Ionizing Radiation Protection and the Institute of Electrical and Electronics

Engineers at any property lines, public roads, and right of ways, or any coastal or inland shoreline.

- X. Ongoing maintenance – Commercial SESs must be properly maintained and kept free from all hazards detrimental to public health/safety or general welfare. The Planning Board must find that the applicant has an appropriate operations and maintenance plan that addresses the following points:
 - (1) Maintenance shall include, but is not limited to, painting, structural repair, vegetative screening, fences, mowing, landscaping and plantings, and security measures.
 - (2) Cleaning of solar panels using harsh chemicals shall be avoided, and a mild detergent and or ammonia mixture should be used in its place to avoid potential leaking of hazardous chemicals into the ground and or water supply.
 - (3) Site access shall be maintained to a level acceptable to the emergency services chiefs to ensure safe emergency service egress and ingress. This includes, but is not limited to road maintenance and snow removal.
 - (4) Maintenance activities that result in any earth disturbance must be graded and reseeded unless a waiver is approved by the planning board.
 - (5) The use of herbicides, pesticides, or chemical vegetation control products is strictly prohibited on or around Commercial SES at all stages of development, operation, and decommissioning.
- Y. Decommissioning and removal – Commercial SES that have reached the end of their useful life or have been abandoned, consistent with this Ordinance, shall be removed.
- Z. Sufficient financing – The Planning Board must find that the applicant has the financial resources to fund development, safely operate, and decommission the Commercial SES.
- AA. Abandonment – Absent notice of a proposed date of decommissioning or written notice to the CEO of extenuating circumstances, a Commercial SES shall be considered abandoned when it fails to operate for more than one year. If the owner or operator fails to remove the installation within 365 days of abandonment or the proposed date of decommissioning, the Town retains the right to use all available means to have the Commercial SES removed.

Section 8. Application Submission Requirements

8.1. An application for a permit to construct and operate a Commercial SES must include the following items in their submitted application:

- A. Identities of the owner and operator of the Commercial SES with contact information.
- B. Detailed qualifications of the operator and an overview of their experience and safety record.
- C. Identity of the property owner with contact information.

- D. If applicable, a copy of the lease agreement, excluding financial terms, and documents detailing roles, rights, and responsibilities of the Commercial SES owner, operator, landowner, and any other responsible parties over the life of the lease agreement.
- E. The roles and responsibilities of the system owner, operator, landowner, and any other party involved in the project.
- F. A site plan showing
 - (1) Property lines and physical features, including roads, for the project site.
 - (2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - (3) The Commercial SES design and equipment layout plan showing conformance to all applicable industry standards and the provisions in this ordinance.
 - (4) Location of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife or the Town, and rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitats as identified by the Maine Natural Areas Program.
 - (5) Locations of wetlands and waterbodies.
 - (6) Locations of “Prime Farmland” and “Farmland of Statewide Importance.”
 - (7) Location of floodplains.
- G. Locations of local or National Historic Districts.
- H. A one- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods.
- I. A description of the project's major components, including PV panels, mounting systems, inverters, and equipment to be installed. Description shall include manufacturer, make and model, and design specifications.
- J. A description of how and to whom the energy produced will be sold and or used.
- K. A copy of the agreement and schematic details of the connection arrangement with the transmission or grid system, clearly indicating the roles, rights, and responsibilities of all parties involved over the life of the Commercial SES project.
- L. A complete construction project plan with site plan, timeline, known contractors, site security controls, electrical schematics, and anticipated date of commencement. Such a plan will also be submitted to the Fire Chief, along with a signed waiver acknowledging that the town of Machias and the Machias Fire Department have no liability beyond containing said fire to the property.
- M. An operations maintenance plan, including security controls and the projected operating life of the Commercial SES. Such a plan shall be completed by qualified experts and include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance. The plan shall include all efforts to protect and support beneficial flora and fauna, as well as a commitment to not utilizing pest control substances such as herbicides, fungicides, and or insecticides. Qualified experts' names and places of business shall be included with the plan.

- N. An emergency management plan addressing all reasonably anticipated potential hazards that has been approved by and filed with the Fire Chief.
- O. A stormwater management plan certified by a Maine-licensed engineer. The licensed engineer's certifications, name, and business shall be disclosed.
- P. A soils and groundwater assessment, a soils management plan, and a soils testing plan from a qualified soils and water expert that contains proper provisions by the expert for yearly testing for contamination that may be produced or leached from the Commercial SES. The soils and water experts' names and businesses shall be disclosed.
 - (1) The plan will include appropriate soils and groundwater testing before construction to determine existing baseline conditions.
 - (2) The plan will ensure testing the overall site conditions during construction, and after operation starts until the decommissioning of the Commercial SES is complete. Test results and reports will be sent to the CEO by January 15 each year for the first three years, then every other year thereafter
 - (3) Should soil or groundwater contamination occur at any point over the life of the Commercial SES, a point source contamination remediation plan should be developed and submitted to the CEO. The plan shall include remediation actions to be performed by qualified soils and groundwater specialists. Specialists' names and businesses shall be disclosed.
- Q. Evidence that the noise levels at all property lines, public roads, and right-of-ways, or any coastal or inland shoreline, will not exceed ten (10) decibels above preconstruction noise levels at any time during steady state operation.
- R. A copy of the deed detailing the property boundaries and lot description for the proposed Commercial SES project from the Washington County Registry of Deeds and the survey of the property conducted by a Maine-licensed surveyor. Name of the said surveyor and their business information shall be disclosed.
- S. Hazardous waste disposal plan demonstrating compliance with local, state, and federal waste disposal regulations.
- T. An Electromagnetic and Radiofrequency Radiation (EMFR) Management Plan provided by a reputable professional EMFR consultant for facilities greater than 1 MW AC in size. The EMFR Management Plan will demonstrate baseline EMFR survey results and planned actions to keep EMFR emissions from the Commercial SES within the limits specified by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) at any property lines, public roads, and rights-of-way, and any coastal or inland shoreline. Documentation shall include the EMFR professional's name and business information.
- U. A public outreach plan, including how the applicant will inform abutters and the community at large about the project.
- V. Copies of notifications and receipts sent to all abutters. Such notifications shall be sent by certified mail with return receipt at least one (1) month prior to application

submission to the Planning Board. Written notification shall include a detailed description, overall sketch, and location of the proposed Commercial SES.

- W. A copy of public postings published in local newspapers with the widest local community circulation, with proof of publication date. The public postings will include an overview of the Commercial SES project and the intent to seek Planning Board approval.
- X. A Decommissioning Plan meeting the requirements of Section 9 of this ordinance shall be provided. The plan must adhere to "State of Maine Act to Ensure Decommissioning of Solar Energy Developments" procedures and guidelines as noted in 35-A M.R.S. § 3494.
- Y. An escrow, surety bond, or other financial instrument that demonstrates the ability to fund future decommissioning in the event of default or bankruptcy of the Applicant in accordance with Section 9 of this ordinance.
- Z. The complete application and accepted permit for all additional Federal, State, County, and Municipal permits the project requires.

Section 9. Decommissioning Plan Requirements

9.1. All Commercial SES projects require a Decommissioning Plan, unless waived by the Planning Board for good cause. As defined in 35-A M.R.S. § 3491 “Decommissioning” means the physical removal of all components of a solar energy development, including but not limited to solar panels and associated anchoring systems and foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, and other structures, buildings, roads, fences, cables, electrical components or associated facilities and foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by the environmental permitting entity. For any portion of a solar energy development located on land classified as farmland any time within 5 years preceding the start of construction of the development, "decommissioning" means the physical removal of all such components of the development to a depth of at least 48 inches or to the depth of bedrock, whichever is less, to the extent such components are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by the environmental permitting entity. "Decommissioning" includes the grading to postconstruction grade and revegetation of all earth disturbed during construction and decommissioning, except for areas already restored, providing for the recycling of the waste components of the solar energy development that are recyclable, including, but not limited to, the solar panels, by a facility authorized to accept such materials for recycling and providing for the disposal of the waste components of the solar energy development that are not recyclable by a facility authorized to accept such materials for disposal.”

9.2. A decommissioning plan shall be provided to the planning board as part of the application. The decommissioning plan shall include the following:

- A. A plan and schedule for accomplishing the following tasks.
 - (1) Physical removal of all Commercial SES structures, equipment, security barriers, foundations above and below grade, and transmission lines from the site.
 - (2) Disposal of all solid and hazardous waste in accordance with Municipal, State, and Federal waste disposal regulations.
 - (3) Stabilization and re-vegetation of the site as necessary to minimize erosion. The CEO may allow the Applicant or the responsible party to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.
 - (4) Grading and re-seeding any earth disturbance, unless authorized for another developed use. Reseeding will be only with native species of this area, and no invasive species shall be used.
- B. An estimate of the total cost to decommission the Commercial SES, including an itemized list of estimated major expenses. The estimates will also include measures to be taken to minimize or prevent adverse impacts on the environment during Decommissioning Plan execution. The itemized costs may include, but are not limited to panel, equipment, foundation, building, transmission corridor, and road removal and permanent stabilization.
- C. A performance bond, surety bond, letter of credit, or other form of financial assurance deemed acceptable by the Planning Board to ensure that at the end of the Commercial SES's useful life, the Applicant will have the necessary financial resources to pay for 110% of the estimated cost of decommissioning. The decommissioning cost will be updated every five (5) years. The financial assurance shall include a provision granting the Town the ability to access the funds and property to perform the decommissioning if the facility is abandoned, or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice.
- D. Disposal plan of all decommissioned equipment and facilities with specific provisions for solid and hazardous waste in accordance with Local, State, and Federal waste disposal regulations.
- E. Letter acknowledging and agreeing to the Decommissioning Plan performance triggers detailed in this ordinance.

9.3. The following decommissioning plan performance triggers shall be acknowledged and agreed to by the Applicant:

- A. A Commercial SES will be presumed to be abandoned if it ceases operation for more than twelve (12) consecutive months. Upon such occurrence, the Town will notify the Applicant that a presumption of abandonment has arisen. The Applicant may file an objection within thirty (30) days of notification. The Applicant will then be afforded the opportunity to rebut the presumption to the Select Board. If the Select Board finds that the operation has not been abandoned, the Applicant will be required to file a

reasonable timetable for recommencing operations or initiating decommissioning. If the Select Board finds that the Applicant has not rebutted the presumption, decommissioning will be initiated. The Applicant may appeal the Select Board's finding of abandonment to Superior Court pursuant to Maine Rules of Civil Procedure 80B. Decommissioning will be stayed during any such appeal.

- B. The decommissioning plan shall be initiated if the project causes the soils and groundwater to become contaminated beyond baseline levels measured during the initial soils and groundwater assessment, and remediation has not been initiated within 30 (thirty) days of identifying contamination. Proof of remediation must be provided to the Select Board within six (6) months. An extension of the six-month requirement may be granted by the Select Board where reasonable progress is being made. Remediation must be completed by a qualified remediation expert. Documentation detailing remediation actions and the professional's name and business information shall be provided to the Select Board.
- C. In addition to the remedies for conviction of a violation of this Ordinance, the Court may order decommissioning for repeated, serious ordinance violations.

9.4. Applicant Reporting Requirements

- A. The Commercial SES Applicant will provide the CEO a report detailing monthly power production output, and output as a percentage of capacity for the prior full six (6) months by January 15 and July 15 each year.
- B. The Commercial SES Applicant will provide the results of annual soil and water contamination monitoring to the CEO by January 15 each year for the first three years, then every other year thereafter.

9.5. Decommissioning Plan Execution

- A. Commercial SESs that have reached the end of their useful operating life, cease to generate power, or have been abandoned shall be decommissioned in accordance with the approved Decommissioning Plan.
- B. Decommissioning should be completed in accordance with the decommissioning schedule contained in the Decommissioning Plan.
- C. The Applicant or current responsible party shall notify the CEO by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for decommissioning.
- D. The Applicant or current responsible party may apply to the CEO for release of any financial assurances at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Planning Board.

9.6. At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all components. Any changes to the approved decommissioning plan shall be subject to review by the CEO and approval by the Planning Board.

Section 10. Setback Waiver

The Planning Board may grant a reduction of the required one hundred fifty (150) foot setback to a minimum of one hundred (100) feet upon receipt of written consent from all abutting property owners.

Section 11. Relationship With Other Ordinances

10.1. Whenever a provision of this Ordinance is inconsistent with another provision of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

Section 12. Severability

11.1. Should any section or provision of this Ordinance be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Section 13. Enforcement

12.1. It shall be unlawful for any Person to violate or fail to comply with or take any action that is contrary to the terms of the Ordinance, or to violate or fail to comply with any permit issued under the Ordinance, or to cause another to violate or fail to comply or take any action which is contrary to the terms of the Ordinance or any permit under the Ordinance.

12.2. The CEO is authorized and shall have the authority to enforce all provisions of this Ordinance, including obtaining fines, injunctive relief, and reasonable attorney's fees and costs pursuant to 30-A, M.R.S. § 4452. If the CEO shall find any provision of this Ordinance is being violated, he shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, or structures, and abatement of nuisance conditions. A copy of such notice shall be maintained as a permanent record by the Planning Board.

12.3. If the alleged violation does not pose an immediate threat to public health or safety, the CEO shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within a reasonable time of said notice of violation.

12.4. When the above action does not result in the correction or abatement of the violation within thirty (30) days from the date of notice of violation or further period as agreed to by the CEO and alleged violator, the CEO determines, in the officer's reasonable discretion, that the parties have not resolved the alleged violation, the CEO may institute any and all actions and proceedings,

either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of Machias, as authorized by the Select Board.

Section 14. Appeals

13.1. Except as otherwise stated herein, the Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or CEO in the administration of this Ordinance. Such hearings shall be held in accordance with State laws. Following such a hearing, the Board of Appeals may reverse the decision of the Planning Board or the CEO only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance. Except, however, decisions of the CEO or Select Board concerning the enforcement of this Ordinance are not appealable to the Board of Appeals.

Section 15. Amendments

14.1. An amendment to this Ordinance may be initiated by the Select Board, provided a majority of them have so voted; or, by written petition conducted in accordance with 30-A M.R.S. § 2504, § 2522, and § 2528, as applicable.

14.2. The Select Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

14.3. An amendment of this Ordinance shall be adopted by a majority vote at Town Meeting

Section 16. Effective Date

15.1. This Ordinance will be effective immediately following its passage by the Town Meeting.

Appendix A. Construction and Maintenance Noise

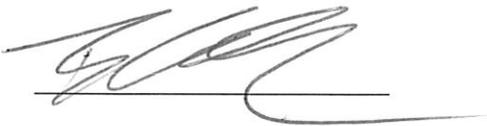
All equipment used in the construction and maintenance of a Commercial Solar Energy Facility shall comply with federal noise regulations and shall include environmental noise control devices in proper working order as provided by the manufacturer.

Sound from construction and maintenance activities between 7 a.m. and 7 p.m. shall not exceed the following limits at any Protected Location:

Duration of Activity	Hourly Sound Level Limited
8 hours	85 dBA
4 hours	90 dBA

3 hours	92 dBA
2 hours	95 dBA
2 hours	97 dBA
1 hour	100 dBA
1 hour or less	105 dBA

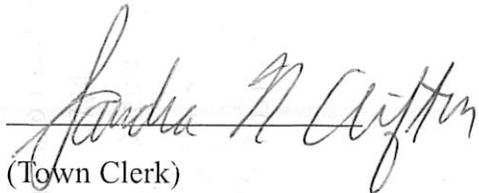
Machias Municipal Officers







Attested Copy:


(Town Clerk)


Date