Alternative Energy Ordinance

Town of Phippsburg

June 11th, 2025

Enacted: 06/11/2025

Effective date: 06/11/2025

Attested to be a true copy: Tina M. Wallace
Town Clerk

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-ABBREVIATIONS-

CEO	Codes Enforcement Officer
DEP	Department of Environmental Protection
DMR	Department of Marine Resources
GP	Great Pond
GPA	Great Pond Area Classification
IF&W	Inland Fisheries and Wildlife
LPI	Licensed Plumbing Inspector
MRSA	Maine Revised Statutes Annotated
MUBEC	Maine Universal Building and Energy Code
NFPA	National Fire Protection Association
SES	Solar Energy System
Town	Town of Phippsburg
WES	Wind Energy System

ALTERNATIVE ENERGY ORDINANCE
Town Of Phippsburg, Maine

The Effective Date of this Ordinance is June 11th, 2025

SECTION 1. PURPOSE

A. This Ordinance seeks to preserve insofar as practical the character of the Town of Phippsburg (Town) as a residential, fishing, and vacation community with clean waters, scenic attractiveness, and a sense of rurality. We seek also to preserve to the maximum extent possible, traditional rights of landowners to use their lands as they desire, while at the same time protecting nearby residential owners from excessive conflicting uses that degrade property values and damage the attractiveness of the community to the detriment of all.

B. Solar and wind energy systems are local, renewable, and non-polluting energy resources that can reduce fossil fuel dependence and emissions. Energy generated from solar energy systems can be used to offset energy demand on the grid, with benefits for system owners and other electricity consumers.

C. The standards that follow enable the accommodation of solar and wind energy systems and equipment in a safe manner while still allowing the quiet enjoyment of property.

D. By adopting this Ordinance, the Town seeks to balance the rights of landowners to use their land throughout the community for commercial, industrial, municipal, institutional, or recreational uses, with the corresponding right of nearby landowners to enjoy their homes without unreasonable disturbance or damage from smoke, noise, fumes, dust, odor, glare, traffic, storm water runoff, or the pollution of ground or surface water.

SECTION 2. AUTHORITY and ADMINISTRATION

This Ordinance is adopted under the powers granted the Town by Title 30-A, M.R.S.A., Section 3001-3014 and the general Home Rule powers of the Town of Phippsburg. This Ordinance shall be administered by the Planning Board and Codes Enforcement Officer (CEO) as applicable.

SECTION 3. APPLICABILITY

A. Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of this Ordinance shall apply to all solar and wind energy systems modified or installed after the date of its enactment.

B. All solar and wind energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards in existence at that time.

C. Any upgrade, modification, or structural change that materially alters the size, placement, or output of an existing solar or wind energy system shall comply with the provisions of any pertinent Town ordinance in existence at that time.

SECTION 4. EFFECTIVE DATE

The effective date of this Ordinance is the date on which the Ordinance was adopted by the Town, June 11, 2025

SECTION 5. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Hard copies shall be made available to the public at a reasonable cost, or may be downloaded at www.phippsburg.com. Notice of availability of this Ordinance shall be posted.

SECTION 6. SEVERALBILTY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance (excluding the current Town of Phippsburg Shoreland Zoning Ordinance), regulation, or statute administered by the Town, the more restrictive provision shall control.

SECTION 8. AMENDMENTS

A. This Ordinance can be amended only by a majority vote at any Phippsburg Town Meeting. Such amendments shall not be effective until the date of the vote.

B. Amendments can be initiated only by a majority vote of the Planning Board, or by a majority vote of the Select Board, or by written petition signed by a number of voters equal to at least ten (10) percent of the number of votes cast in the Town at the last gubernatorial election.

SECTION 9. STANDARD FOR APPROVAL

A. Scale size and Setbacks

1. Small-scale Solar Energy System (SES) is one whose physical size based on total airspace projected over a roof or the ground is less than 15,000 square feet (approximately one-third of an acre).

2. Medium-scale SES is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres).

3. Large-scale SES is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).

4. Residential-Scale WES is a small stand-alone turbine, capable of producing less than ten (10) kW of energy, with a tower no taller than fifty (50) feet, intended to generate the amount of power required in a single-family dwelling and accessory buildings for daily operation.

5. Small Commercial-Scale WES is a mid-sized single turbine, or system of turbines, capable of producing more than ten (10) kW, but less than fifty (50) kW of energy, with a tower no taller than fifty (50) feet, intended for use in small businesses, farms, schools, or office buildings.

6. Setbacks SES:

a. Residential Ground-Mounted Structures shall be setback from the traveled way as follows:

i. Seventy-five (75) feet from the center of the traveled way along Route 209 (Main Road) starting at the Town Line at Winnegance to the Main Entrance of the State Park, from beginning of Route 216 (Small Point Road) to the Club Road, from the beginning of Sebasco Road to the culvert at the north end of Wat-tuh Lake and from the beginning of the West Point Road to Holland Drive;

ii. Fifty (50) feet from the center of the traveled way for all other publicly maintained roads;

iii. Ten (10) feet from the edge of the traveled way for privately maintained roads, but in no case less than twenty (20) feet from a property line.

b. Commercial and Industrial Ground-Mounted Structures within an SES shall be set back with a minimum one hundred fifty (150) feet from all lot lines.

c. The Planning Board may approve substitute buffer zones providing the purposes of this Ordinance are maintained. Substitute buffer zones may be approved when the topography of the land, the nature of the vegetation, or building(s) provides screening that is equal in protection to the required width of a buffer zone. Substitute buffer zones may also be approved when the character of a neighborhood is predominantly commercial.

i. The applicant shall have the burden of demonstrating that the topography of the land, the nature of the vegetation, or building(s) provides screening that is equal in protection to the required width of the buffer zone, or that the character of the neighborhood is predominantly commercial.

d. The Planning Board shall approve with conditions or deny all applications for substitute buffer zones.

e. Substitute buffer zones shall not be considered a variance.

f. No ground-mounted SESs shall be permitted in the Shoreland Zone.

7. Setbacks WES:

a. Residential WESs shall be setback from the traveled way as follows:

i. Seventy-five (75) feet from the center of the traveled way along Route 209 (Main Road) starting at the Town Line at Winnegance to the Main Entrance of the State Park, from beginning of Route 216 (Small Point Road) to the Club Road, from the beginning of Sebasco Road to the culvert at the north end of Wat-tuh Lake and from the beginning of the West Point Road to Holland Drive;

ii. Fifty (50) feet from the center of the traveled way for all other publicly maintained roads;

iii. Ten (10) feet from the edge of the traveled way for privately maintained roads, but in no case less than twenty (20) feet from a property line

b. All parts of a WES shall be set back from all adjoining property lines, roads, easements, rights-of-way, and any structures a minimum distance equal to one

and one half (1 ½) times the maximum combined height of the tower and blade height (when the blades are vertical), as measured from the ground.

c. Setbacks from the applicant/property owner's habitable structure may be reduced on a case-by-case determination of safety and suitability, as long as other setback requirements can be met.

d. Approval to build or operate a WES applies only to that portion of the project located within the boundaries of the Town.

e. No WESs shall be permitted in the Shoreland Zone.

8. Height:

a. A roof-mounted SES shall not exceed the existing roof ridgeline nor be higher than five (5) feet above a flat roof.

b. A ground-mounted SES shall not exceed twenty-two (22) feet in height when oriented at maximum tilt.

c. A WES shall not exceed a maximum height in excess of seventy- five (75) feet as measured from the ground to the highest point as measured from the top of the blade when vertical.

9. Noise:

a. The WES shall not exceed forty five (45) decibels as measured at the adjoining property lines and habitable structures, except during short-term weather events such as severe wind storms.

b. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Planning Board. The report shall be submitted to the Planning Board for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded, in which case, the owner of the system shall pay the fee.

c. If the maximum decibel reading area is exceeded, the installation shall be considered a nuisance and must be corrected within ninety (90) days from notification of the violation and if the violation cannot be corrected, the WES shall be removed or relocated.

10. Prohibited Systems:

a. No large scale SES or industrial SES shall be permitted in the Shoreland Zone.

b. No WES capable of producing more than 50 kilowatt of energy shall be permitted in the Town.

11. Lots: The lot on which an energy system is located shall meet applicable Town ordinances.

12. Screening: Lots on which Gound-Mounted Commercial SESs are located shall utilize buffer/screening from the roads and residences by plantings, berms, and natural topographical features. The screen shall consist of a vegetative barrier, which provides a visual screen. In lieu of a vegetative screen, a fence that provides a visual screening, and meets the requirements of the controlling ordinance, may be allowed, but only if a vegetative screen is deemed impractical by the Planning Board.

13. Glare: All SESs shall be situated to eliminate concentrated glare onto nearby structures or roadways. No new SES, structure, or addition shall be built that casts a shadow on south-facing windows or other solar collecting devices on neighboring properties on December 22nd unless the owners of such devices and windows shall agree in writing that they do not object to such shading. Neither shall any new vegetation be allowed to grow so as to cast such a shadow without the owner of a solar device agreeing. Any tree, shrub, or any planted landscaping growing at the time of the construction or installation of the solar device may be allowed to remain and grow out its natural life.

Note: SESs and WESs are structures.

14. Land Clearing, Soil Erosion, and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of ground-mounted SESs or as otherwise prescribed by applicable laws, regulations, and bylaws. Ground-mounted facilities shall minimize mowing to the extent practicable. Removal of mature trees shall be avoided to the extent possible. Native, pollinator-friendly seed mixtures shall be used to the extent possible. Herbicide and pesticide use shall be minimized. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.

15. Signage: Commercial and Industrial energy systems shall be required to post a sign identifying the owner/operator and provide a 24-hour emergency contact phone number. SESs shall not be used for displaying any advertising. A clearly visible warning sign informing individuals of potential voltage hazards shall be placed at the base of all pad-mounted transformers and substations, and on any fence surrounding the SES.

B. Emergency Planning:

1. Safety: The owner or applicant applying for a Commercial and Industrial energy system shall provide a copy of the application to the Fire Chief for written review and comment. The Fire Chief shall base any recommendation for approval or denial of the application upon review of the fire safety of the proposed system.

2. Industrial SES: The owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall cooperate with the Fire Department in developing an emergency response plan and any necessary training. All means of shutting down the system shall be clearly marked, and a "Knox Box" shall be installed to enable Emergency Services responders to access the facility.

3. Access: Commercial and Industrial energy systems shall provide adequate access, parking, and circulation for service and emergency vehicles, as determined by the Planning Board in consultation with the Fire Chief. At least one twenty (20) foot wide all-weather access way shall be provided and maintained from a public way to the facility. The access way shall comply with the performance standards in the Town Land Use Ordinance.

C. Preservation of Town's Character: All reasonable efforts, as determined by the Planning Board, shall be made to ensure any energy system is consistent with the character of the community via visual consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan.

D. Dimensional Regulations: In most cases, the existing dimensional standards in this Ordinance will allow for the development of small, medium, large-scale SESs, and all WESs. However, the Planning Board has the right to consider alternate dimensional standards that are necessary to allow an SES while preserving the integrity and directives of Section 1.

SECTION 10. PERMITS REQUIRED

A. Permits:

After the effective date of this Ordinance no person shall engage in any activity or use of land or structure without first obtaining the required permit from the appropriate permitting authority. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

1. Permits for Residential Roof-Mounted SESs are issued by the CEO.
2. Permits for all other energy systems are issued by the Planning Board.
3. Any permit required by this Ordinance shall be in addition to any other permit required by any other law or Ordinance.

B. Fees:

1. Small-scale SES and Residential WES $100.00
2. Medium-scale SES and Small-scale WES $500.00
3. Large-scale SES $2500.00

SECTION 11. PERMIT APPLICATION

A. Applications:

Every applicant for a permit shall submit a completed application to the appropriate official as indicated in Section 10.A. The forms shall be provided by the Town.

1. Building permit applications shall include a scaled site plan and a scaled building plan. Plans shall not be smaller than 11"x17". Fees shall be in in accordance with Section 10.B.

2. Applications packets shall include appropriate fees and the following:

a. The application form,
b. Any other supporting information,
c. When required, legible scaled site plans and scaled building plans no smaller than 11"x17".

3. The applicant shall provide ten (10) packets; thirteen (13) if for a New Business. A packet shall be mailed to each of the Planning Board members fourteen (14) days prior to the scheduled meeting and the remaining packets shall be presented at the scheduled meeting.

B. Site Plan and Review:

Residential Roof-Mounted SESs are not subject to Site Plan Review. All other SESs are required to provide the following site plan documentation:

1. Property lines and physical features, including roads, for the project site;

2. Proposed changes to the landscape of the site, grading, vegetation clearing, planting, screening vegetation, exterior lighting, or structures;

3. Blueprints or drawings of the SES showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;

4. Documentation of the major system components to be used, including the panels, mounting system, and inverter(s);

5. Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners, if any;

6. A one or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods;

7. Locations of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife, Town of Phippsburg ordnances , or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitat as identified by the Maine Natural Areas Program;

8. Locations of wetlands and waterbodies;

9. Locations of floodplains;

10. Locations of archaeological and historic sites;

11. Medium, large scale SESs, and commercial WESs shall be required to have a public outreach plan, including how the project applicant will inform abutters and the community.

Note: minimum font size of 12 shall be used on all supporting documentation

SECTION 12. DECOMMISSIONING

A. A description of the trigger for implementing the decommissioning plan. There is a reputable presumption that decommissioning is required if 10% or less permitted capacity of electricity is generated for a continuous period of twelve (12) months. The applicant may rebut the presumption by submitting evidence, such as a major event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of twelve (12) months, the project has not been abandoned and should not be decommissioned.

B. A description of the physical work needed to remove all energy system related components, including associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing and subject to Planning Board approval. At the time of decommissioning, the applicant may provide evidence of plans for continued beneficial use of any or all of the components of the SES. Any changes to approved decommissioning plan shall be subject to review and approval by the Planning Board.

C. An estimate of the total cost of decommissioning value of the equipment and itemization of the estimated major expenses, including the projected cost of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major cost may include, but not limited to, the cost of the following activities: panel removal, panel foundation (frame work) removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization.

D. Demonstration in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be accepted to the Planning Board that upon the end of the useful life of the SES the application will have the necessary financial assurance in place for 150% of the estimated cost for decommissioning, subject to a review of such cost by the CEO. The financial assurance shall include a provision granting the town the ability to access the funds and property and perform the decommissioning if the energy system is abandoned or the applicant or subsequent responsible party fails to meet their obligations after responsible notice, to be defined in the agreement and approved by the Planning Board. The applicant may apply to the CEO for release of the guarantee at such time that said applicant or the assignee remove the system and associated abandoned structure, and such completed removal is found to be satisfactory by the Planning Board.

E. A written statement guaranteeing all components of the energy system will be removed. No burial of any equipment shall take place on an energy system site. All components associated with the energy system will be removed and disposed of at a proper facility outside of the Town of Phippsburg in accordance with State of Maine guidelines.

Section 13. DEFINITIONS

Commercial SES: A system used for producing energy primarily for use at a property where the applicant operates a business or where the applicant rents or leases space to another individual or entity for business purposes.

Decibel: A unit used to measure the intensity of a sound or the power level of an electrical signal by comparing it with a given level on a logarithmic scale.

Decommissioning: The process of removing the solar energy system and restoring the site to the standards described in the applicant's Town permit, the Maine DEP approval, if applicable, or the State's standards in effect at the time of decommissioning, whichever are more restrictive to the owner/operator.

Electrical Component/Equipment: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended location.

Electricity Generation: (production, output): The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

Emergency Vehicle: A vehicle used by emergency services. Emergency vehicles typically have specialized emergency lighting and vehicle equipment that allow emergency services to reach calls for service in a timely manner, transport equipment and resources, or perform their task efficiently. Emergency vehicles are usually operated by authorized government agencies, and some may also be operated by private entities where permitted by law.

Height of Building: The vertical measurement from grade to the highest point of the building, except that utility structures such as chimneys, TV antennae, HVAC systems, and roof-mounted solar energy systems shall not be included in this measurement, nor shall any construction whose sole function is to house or conceal such structures.

Industrial SES: A system used primarily for the production of energy for the power grid.

Knox Box: A small, wall-mounted safe that holds building keys for fire departments, emergency medical services, and sometimes police to retrieve in emergency situations.

Mounting: The manner in which a solar PV system is affixed to the roof or ground (i.e., roof mount, or ground mount.

Power: The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc. in Alternative Current (AC).

Proponent: A person who advocates a theory, proposal, or project.

Residential SES: A system used for producing energy primarily for use at the property where the applicant resides.

Roof Ridgeline: The horizonal line in which the tops of the rafters of a roof meet.

Solar Array: Multiple solar panels combined together to create one system.

Solar Collector: A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted, and may be of any size as follows:

1. Small-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is less than 15,000 square feet (approximately one-third of an acre);

2. Medium-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres);

3. Large-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the exterior lighting, ground, and is not roof-mounted; may be of any size (small, medium, or large-scale); meet all setback requirements; not visible or reflecting on a neighbor.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure; may be of any size (small, medium, or large-scale).

Surety Bond: Maine surety bonds are financial guarantees that specific obligations will be completed according to mutual terms. They protect consumers and government entities from malpractice and are often required to receive a business license or permit in Maine.

Tilt: The angle of the solar panels and/or solar collector relative to horizontal. Tilt is often between 5 and 40 degrees. Solar energy systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round.

Wind Energy System: A wind energy generation system consisting of a wind turbine, a tower, and associated control or conversion electronics.