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A. Title

This Ordinance shall be known and cited as the "Solar Energy Systems Ordinance" of Monson, Maine, (hereinafter referred to as the "Solar Ordinance").

B. Purpose

The purpose of this ordinance is to establish a municipal review procedure and performance standards for Solar Energy Systems (SES), including those typically characterized as "solar farms". These standards are intended to:

1. Establish clear guidelines, standards and time frames for the Town to regulate Solar Energy Systems;

2. Permit the Town to fairly and responsibly protect public health, safety and welfare;

3. Minimize any potential adverse effect of solar development on surrounding land use;

4. Provide for the decommissioning/removal of panels and associated utility structures that are no longer being used for energy generation and transmission purposes;

5. and Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural, scenic, and agricultural resources.

C. Authority

This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (Home Rule), and the provisions of Title 30-A §4312 et. seq. (Comprehensive Planning and Site Plan Review Regulation, or "Growth Management" Act).

D. Applicability

This ordinance applies to all new commercial and industrial solar systems. All existing systems prior to the adoption of this ordinance are not under jurisdiction unless expansion or modifications are made after adoption of this ordinance. In this case all alterations shall comply with this ordinance.

An "existing system" shall include any solar system that is complete, and is connected to the grid when this ordinance goes into effect.

All personal residential solar systems and rooftop solar systems as defined in ordinance shall not be governed by these regulations. All personal/residential/rooftop systems shall have an approved permit from local CEO and appropriate fees paid to town and abide by all property setbacks in the land use ordinance.

Activities					
Transportation and Utilities	VD	MRD	ICom	IFD	RR
Personal/Residential Solar Power Systems	C	C	C	C	C
Commercial Solar Power Systems	N	N	P	P	P
Industrial Solar Power Systems	N	N	P	N	N

E. Conflict with Other Ordinances

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation or ordinance, the more restrictive provision shall apply.

F. Definitions

ABANDONMENT: Commercial ground-mounted systems and all industrial systems, or a portion thereof, shall be deemed abandoned if it ceases to generate electricity for a continuous period of 12

months, and shall be decommissioned.

ABUTTER: The owner(s) of property within 1,000 feet of the perimeter of the Solar System installation site and any additional landowners as deemed necessary by the Planning Board, regardless if the properties are separated by a public or private street or right of way. The owners of property shall be considered to be the parties listed by the Tax Assessor of Monson as the ones against whom taxes are assessed.

ACCESSORY STRUCTURE OR USE: A use or structure which is customarily both incidental and subordinate to the principal structure and is on the same lot only. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

APPLICANT: A person who applies for a Solar Energy Generation System. An applicant can be the landowner of record or solar farm energy provider or agent of record with the landowner's (or other legally designated representative) written permission.

BUFFER: A way to screen the more intensive land use from the less intensive land use through the installation of landscaping, mounding, and/or fencing materials. Screening consists of a planting strip, existing vegetation, a slightly opaque wall or fence, or combination thereof, to the reasonable satisfaction of the Planning Board.

BUILDING PERMIT: The official written document to be displayed at the construction site that grants the authorization for the construction. This document is issued by the Code Enforcement Officer and required for subsequent operating permits.

CERTIFICATE of OPERATION: The permit granted by the Monson Code Enforcement Officer allowing the solar farm owner to bring the installation online to generate power at the property to the utility grid. Should operators fail to operate as the application was approved or in an unsafe manner the Code Enforcement Officer may rescind the Certificate of operation after notice and a hearing with the Owner, CEO and any additional relevant participants as requested by the Owner or CEO.

CODE ENFORCEMENT OFFICER (CEO): A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance and by a vote by Planning Board that an application has been deemed complete. The Planning Board shall issue a written statement to the applicant upon its determination that an application is complete.

CONSENT AGREEMENT: See ADMINISTRATIVE CONSENT AGREEMENT.

CONSTRUCTION: Includes building, erecting, altering, reconstructing, moving upon or any physical operations on the premises which are required for construction. Excavating, fill, drainage, and the like, shall be considered a part of construction.

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, and the state standards in effect at the time of decommissioning.

DRIVEWAY: A vehicular access-way serving one (1) lot that provides access to a street.

FENCING: a fence constructed to a standard which is substantially more than a stock fence and which effectively controls the movement of wild animals out of or into defined areas.

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material. This term includes any method of support / connection of solar panels systems to the ground.

GUARANTEE: See Surety.

LOT COVERAGE: The percentage of the lot covered by all buildings, driveways, parking areas, other areas where vegetation is removed.

LOT: An area of land in one ownership, or leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

M.R.S.A.: Maine Revised Statutes Annotated.

MDEP: Maine Department of Environmental Protection.

MOUNTING: The manner in which a Solar Energy System is affixed to the ground, a wall, or a roof.

PROJECT DEVELOPER: The project Developer is the entity, individual or contractor responsible for all site work, construction and equipment installation associated with the solar development.

PROJECT OWNER: The owner of the project is the individual or entity who owns or leases the property on which the project is located, owns or leases all equipment related to the project, and is the recipient of all revenue derived from the project.

PROPERTY OWNER: The owners of property shall be considered to be the parties listed by the Tax Assessor of Monson as the ones against whom taxes are assessed. The owner holds the ultimate responsibility for any actions taken on the property that are in violation of any federal, state and local codes and ordinances.

PEER REVIEW ESCROW ACCOUNT: The financial account established, by the Applicant, for the Peer Review Professional fees to be paid from, for their reviewing the application on behalf of the Town. The Planning Board or Select Board may, with notice to the applicant, hire independent expert consultants or specialists as they may deem necessary for advice in carrying out the provisions of this ordinance.

PERFORMANCE GUARANTEE: A performance bond or surety bond held by the Town of Monson; issued by an insurance company or bank to guarantee satisfactory completion of the project by the applicant; also denotes a collateral deposit of "good faith money".

ROAD: Any public or private way designed for vehicular access, other than driveways, farm roads, trails or logging roads. The term "roads" includes synonymous words including, street, avenue, highway, lane, way, ect.

ROOF-MOUNTED SOLAR ENERGY SYSTEMS: A Solar Energy System that is mounted on the roof of a building or structure.

SETBACK: The minimum horizontal distance from a lot line, right of way or normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

SOLAR ARRAY: Multiple solar panels combined together to create one Solar System.

SOLAR ENERGY SYSTEM, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted.

SOLAR ENERGY SYSTEM, Roof-Mounted: A Solar Energy System that is structurally mounted to the roof of a structure.

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.

> **SOLAR ENERGY:** Radiant energy (direct, diffuse and/or reflective) received from the sun.
>
> **SOLAR PANEL:** That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy into electricity.

STRUCTURE: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalls, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

SURETY: Surety bond or guarantee; a pledge or formal promise made to secure against loss, damage, default or for the fulfillment of an obligation; a guarantee or security; the payment of a debt. The type of surety/guarantee shall be approved by the Board of Selectmen and may include any of the following: a certified check payable to the Town of Monson, a savings account passbook issued in the name of the Town or a faithful performance bond running to the Town of Monson; issued by a surety company authorized to do business in Maine.

VEGETATION: All live trees, shrubs, ground cover, and other plants, including without limitations, trees, both over and under four (4) inches in diameter, measured four and one half (4.5) feet.

WILDLIFE CORRIDORS: A wildlife corridor allows small land species to retain traveling avenues between two similar yet fragmented habitat areas. As they relate to solar farms, a six inch (6") gap under all required security fencing shall be provided.

G. Standards

1. **Personal/Residential** systems are rooftop and/or ground mounted systems for the purpose of providing onsite power generation for the primary and/or accessory structures on the property.

    a. Personal/Residential systems may be grid tied and/or connected to onsite battery storage.

    b. Ground mounted Personal/Residential systems are limited to a size and scale sufficient to provide power for principal and accessory structures on the property.

    c. Ground mounted Personal/Residential systems shall be installed on the same property as the primary structure it serves.

2. **Commercial Solar**:

Commercial Systems shall have a total footprint of no more than 1 acre (43560 sq ft) in which the solar array may not consume more than 60 percent of this area. All areas outside this one acre footprint shall consist of natural tree / perennial growth other than access point to the solar array. Any cleared land outside this area which was deemed necessary for the construction of the project shall be brought back to nature as dictated in the original written plan.

a. All commercial systems shall comply with all national electrical codes and all approved local ordinances enacted by the town.

b. All required written documentation shall be approved by the planning board.

c. Access point shall be a maintained road and corridor which is no larger than that required to allow vehicle access and appropriate area for utilities to be tied into the electrical grid.

d. Only one commercial solar system shall be allowed per lot and or one lot on a subdivided lot owned by a single person. There shall be a minimum 100 ft buffer zone on all sides of the solar array which consists of natural trees/ perennials unless acreage does not allow it, in which case the project developer must apply for a waiver. No variance to dimensional setbacks shall be granted by the Planning Board without a signed release from all abutters.

e. There shall be a minimum 200 ft setback from all existing dwelling units.

f. All surrounding land shall be maintained as natural growth and shall only be altered to address safety concerns or allow the maintenance of systems.

g. Commercial solar systems will only be allowed in the areas zoned rural residential and industrial.

h. Visual Impact: Reasonable efforts, as determined by the Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening abutting properties or other appropriate measures, including adherence to height standards and setback requirements and to reduce glare in the direction of abutting or neighboring properties or roads and streets.

i. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a solar panel array and/or modules, building, or other structure associated with a CSES and ISES shall be prohibited. No CSES or ISES shall have any signage, writing or pictures that serve as promotion or advertising placed on it at any time.

j. All commercial solar systems shall have maintenance/emergency plans in place and written/electronic documentation of these procedures which are approved by the planning board.

k. All solar project owners shall provide access to real-time electronic monitoring of system output and/or provide an annual report of actual system outputs broken down by month. This shall be displayed online via a link on the town website to allow public access.

l. All maintenance and alterations to the original approved plan shall be brought in front of the planning board for approval prior to commencing any work.

m. All property and surrounding land shall be maintained so as to minimize environmental impact. This includes any water/erosion mitigation set forth by the initial documented plan presented to the planning board.

3. **Industrial systems**

Industrial systems shall comply with all commercial system standards other than they shall have an allowable size of no more than 10 acres. No more than one acre shall be cleared of natural vegetation from existing industrial lots to allow installation of solar systems.

a. Industrial systems shall exist only on land zoned as “industrial” in the land use ordinance documentation.

b. All areas outside this 10 acre footprint shall consist of natural tree / perennial growth other than access point to the solar array.

c. Any cleared land outside this area which was deemed necessary for the construction of the project shall be brought back to nature as dictated in the original written plan.

H. Required Documents

Prior to approval of Commercial and Industrial Solar Power Systems the following documents must be presented and approved by the planning board.

1. **Initial site plan** to include schematic of proposed solar system design and layout. This includes materials lists of all equipment to be installed along with any msds sheets for all hazardous materials. The schematic shall include all property lines, planned roads and access point, all locations of equipment above and below ground. It must also include location of any other utilities, bodies of water, perennial, intermittent, and ephemeral streams. All existing vegetation and trees that will be affected by the construction of the project shall be noted.

2. **Erosion control plan** to mitigate any runoff due to normal precipitation or seasonal runoff. This plan is to show the approximate volume of water, direction of flow and output location of any runoff. All materials and practices must comply with State DEP and DOT guidelines. No run off shall impede on adjacent properties without written owner consent.

3. **Emergency plan** to include repair/ containment of any chemical/mechanical equipment that represent an imminent risk to health or property. This shall list the chain of command contact numbers and names for each individual issue that may arise.

4. **Annual maintenance plan** for not only the equipment on the project site but also the natural vegetation (i.e. trimming of trees / grasses.) In the event of non-emergent issues such as: downed trees, damage to fencing or accessory structures, and/or erosion, the developer shall have 30 days to present a plan to rectify the problem and present this to the planning board and CEO for approval. The developer then shall have another 30 days to make the repair unless equipment to be repaired will be delayed due to supply issues which must be documented to the planning board and ceo. In this event there shall be communication between developer and planning board/ceo as this process proceeds until completed.

5. D**ecommission plan** shall be presented to the planning board to include how a failed or abandoned system will be removed and disposed of. The developer is responsible for all fees associated with the decommissioning and all recyclable materials shall be recycled in the proper manner will all fees paid for by the developer. All abandoned property if not removed by the developer shall be removed by the town and paid out of an escrow account set in place prior to construction of the solar system. Escrow account is to be maintained throughout the lifespan of the system.

6. Any violations of these approved documents are subject to fines appropriated by the planning board and CEO

I. Waivers

The Planning Board may waive any submission requirements and non-dimensional standards of this Ordinance, provided that such waiver will not have the effect of nullifying the purpose of this Ordinance or any other ordinance or law. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, substantially secure the objectives of the requirements so waived.

J. Application and Permit Fees

Application Fee:

1. Solar Energy System, Industrial Scale. The Application Fee is $2,500.
2. Solar Energy System, Commercial Scale. The Application Fee is $500.
3. Solar Energy System, Personal/Residential Scale. The Application Fee is the standard building permit fee.
4. Permit Fee is $1.00 per kW with a minimum fee of $25

K. Financial Responsibility

1. Liability and Environmental Insurance

Through the life of the facility, the developer shall maintain current general liability (GL) and environmental policy in an amount commensurate to the potential liability of the Industrial and Ground-mounted Commercial Systems.

2. Escrow

The Planning Board, with notice to the applicant, may hire independent expert consultants or specialists as they may deem necessary to advise in carrying out the provisions of this ordinance. All costs and expenses shall be paid for by the applicant through an escrow account. The escrow account shall be established when requested by the Town, for an initial amount of $10,000 in the name of the Town. If the escrow amount falls below 50% of the original required deposit amount, full replenishment is required within thirty (30) calendar days of notice to the applicant. The Town reserves the right to cease review if escrow amounts are insufficient and the applicant fails to replenish the account upon request by the Town.

3. Abandonment

a. Commercial ground-mounted systems and all Industrial systems, or a portion thereof, shall be decommissioned if it ceases to generate electricity for a continuous period of twelve (12) months after the start of operation. An extension of up to a year may be granted by the planning board at its sole discretion depending on extenuating circumstances.

b. As part of the permitting Commercial ground-mounted systems and all Industrial systems, the applicant shall submit a Decommissioning Plan to the Town with a cost estimate for the costs of decommissioning.

c. The Decommissioning Plan shall include financial assurance, naming the Town as beneficiary, to cover the costs associated with decommissioning the abandoned solar energy system through the lifespan of the facility. An independent and certified licensed Professional Engineer, selected by the Town, may be retained to help establish the cost of decommissioning, without regard to salvage value, and itemize the estimated major expenses to restore the site to the requirements of the approved site restoration plan or Maine DEP approval, if applicable, or the requirements of the Maine DEP in effect at the time of decommissioning, whichever is more restrictive to the developer. The Decommissioning Plan will also include a defined timeline for the decommissioning process.

d. If the developer fails to complete the decommissioning of the Industrial and Ground-mounted Commercial Systems within the established timelines, the Town may take such action as necessary (including court action, with all legal costs to be paid by the developer) to secure the posted decommissioning funds and to complete the decommissioning work. In the case of abandonment, the Town shall utilize the decommissioning funds to decommission the solar energy system and take such action as necessary, including court action, to secure funds and to ensure completion of the decommissioning should the posted decommissioning fund not be sufficient to complete decommissioning.

e. The Planning Board shall not approve an application for an Industrial and Ground-mounted Commercial System until the applicant has submitted an executed Decommissioning Access Agreement that authorizes the Town, or its agents, to enter onto the solar energy system property for the purposes of implementing the Decommissioning Plan upon the occurrence of a triggering event, as described in the Decommissioning Plan, that requires the implementation of decommissioning activities and the developer fails or refuses to commence decommissioning activities, such that the Town is authorized to access the bond or other financial guarantee to permit the Town to decommission the facility. The Decommissioning Access Agreement shall run with the land and shall be executed in a form suitable for recording in the County Registry of Deeds. Once a solar energy system has been decommissioned, the Town will release the Decommissioning Access Agreement and notify the County Registry of Deeds.

f. The financial assurance of decommissioning funds may be in the form of a performance bond, surety bond, or other form of bonded assurance, and shall demonstrate the financial assurance to the satisfaction of the CEO during permitting phases, and to the Select Board thereafter. Prior to the issuance of a Building Permit, the developer shall post and maintain decommissioning funds in an amount no less than 150% of the cost of decommissioning the project to be constructed under that Building Permit, as well as the cost to restore the site area developed under the permit. The financial assurance shall be maintained at 150% for the rest of the life of the solar energy system regardless of change of ownership. The CEO will inform the owner of the amount of coverage required at each two-year update/revaluation, described herein and the owner will provide proof of required coverage within thirty (30) calendar days of notification. Failure to do so will cause the Certificate of Operation to be rescinded.

g. The Select Board shall review the financial stability of the financial institution providing the financial assurance initially and coincident with each two-year update/revaluation. The financial institution shall have a minimum AM Best rating of A to A- (excellent).

h. In the event the owner is unable to secure an underwritten bond, etc. due to no underwriting entities existing, the Select Board may consider accepting a 150% funded escrow account as an alternative. The escrow account would be opened by the owner prior to construction at a financial institution approved by the Select Board, in the name of the Town, to be managed by the Town Treasurer, in an amount to be established initially and at every two-year update/revaluation as described in subsection 7 Final Decommissioning Plan.

L. Decommissioning Plan

Prior to decommissioning, the owner of the Industrial and Ground- mounted Commercial System shall submit a final decommissioning plan to the CEO for final review and approval. No decommissioning shall begin without CEO approval. The final plan shall include but not be limited to the following:

1. Anticipated start date of decommissioning.

2. Anticipated completion date of decommissioning.

3. Methods to remove all parts of the solar energy system including foundations and how they will be disposed of or recycled.

4. Areas and methods to restore disturbed land areas.

5. Cost for decommissioning based on Article J. 3. B. Above.

6. All solar energy system materials shall be disposed of or recycled in a licensed facility; only rock, soil, and vegetation may be disposed of on-site. All foundations shall be removed to a minimum of 24" below ground, except where the CEO finds that at least 25% of the area where the solar energy system is located was farmed, has soils designated as significant for farming, or is intended to be farmed, in which case foundations shall be removed to 48" below ground.

7. Proposed Changes to the Approved Decommissioning Plan: Any changes that impact Bond, Escrow, Decommissioning, or Safety need to be immediately communicated to and approved by the CEO.

M. Inspection, Update and Reevaluation

1. The owner of the SES shall allow the CEO access to inspect the project site and system at least once every two years.

2. The owner shall provide (at their cost) every two years a 3rd party certified inspection report.

3. Any repairs deemed necessary by the CEO or certified inspector shall be completed within 30 days of notification.

4. The owner of the SES shall provide to the CEO:
   a. An updated cost estimate for the decommissioning and removal of the SES. This update shall be provided every 2 (two) years starting with the initial date of commissioning of the project.

   b. Any updates to the contact details of the SES.

   c. Notice of any expansion or upgrades to equipment installed, including storage and monitoring systems.

N. Enforcement, Violations, and Penalties

1. Enforcement: It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions

of this solar ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify the owner, as the responsible party, in writing by registered mail, indicating the nature of the violation and the actions necessary to correct the violation(s), including the discontinuance of illegal use of land, buildings, or structures. A copy of all such notices shall be maintained by the town as a permanent record.

2. Violations: Violations of the Solar Ordinance shall include, but not be limited to, the following:

    a. Installation of solar energy systems without obtaining the necessary permits as required by the ordinance.

    b. Non-compliance with design, setback, height, or other regulatory requirements specified in the ordinance.

    c. Failure to adhere to the approved solar energy system plans or specifications.

    d. Any other action deemed contrary to the provisions outlined in this Ordinance.

3. Penalties:

    Penalties will be assessed by the CEO for ongoing violations according to the following guidelines:

    a. Initial Notice: Upon identification of a violation, the responsible authority shall issue a written notice to the property owner or installer outlining the nature of the violation and providing a reasonable timeframe for corrective action.

    b. Corrective Action: The property owner or installer shall be required to rectify the violation within the stipulated time frame or submit a plan for compliance approval to the CEO.

    c. Repeat Offenses: In the event of repeat violations by the same property owner or installer, escalating penalties may be imposed, which may include fines, cessation of construction activities, or other appropriate measures.

    d. Fines: After written notification, continued non-compliance may result in minimum fines of not less than $100.00 nor exceed $2,500.00 per day for each violation. Each day the violation continues shall constitute a separate violation.

    e. Suspension or Revocation of Permits: The responsible authority retains the right to suspend or revoke permits for non-compliance with the Town Solar Ordinance, subject to due process and appeal procedures specified therein.

    f. Legal Action: In cases of persistent or egregious violations, or in cases where the above measures do not lead to corrective action, the Select board, upon notice from the CEO, is hereby required to institute any and all actions and proceedings, including seeking injunctive relief of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality, under 30-A M.R.S.A. § 4452.

g. Criminal Penalties: In cases of willful or intentional violations that pose a significant threat to public safety or welfare, criminal penalties may be pursued in accordance with applicable laws and ordinances.

O. Appeal Process

Property owners or installers aggrieved by decisions or penalties imposed under this Ordinance shall have the right to appeal through established administrative or judicial review procedures as specified in the Land Use Ordinance or by applicable state or local laws.

P. Amendment and Modification

The Town Solar Ordinance may be amended or modified as necessary to address evolving regulatory requirements, technological advancements, or community needs. Any proposed changes shall be subject to public review, input, and approval processes as mandated by law.

Q. Effective Date

This ordinance shall be effective upon its adoption by the municipal legislative body.