NEW VINEYARD SOLAR ENERGY SYSTEMS ORDINANCE

Final 11/11/22

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Definitions

Applicant: The person or entity submitting an application and seeking approval under this ordinance, the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of a Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an applicant, Solar Energy System or proposed Solar Energy System. Whenever the term "applicant" or "owner" or "operator" are used in this ordinance, said term shall include any person acting as an applicant, owner or or operator or successor operator of such Solar Energy System.

CEO: Code Enforcement Officer

CSES: Commercial Solar Energy Systems

Permit: Written permission issued by the Town of New Vineyard, empowering the holder thereof to construct a facility in accordance with this Ordinance

Permittee: Any person or organization to whom a permit, as it pertains to this Ordinance, is issued.

Project Boundary: The boundaries of the Solar Energy System which the Owner/Operator has legal right or interest or the option to acquire the same as shown on the site plan submitted to and approved by the Planning Board in accordance with this Ordinance.

Project Parcel: Any parcel(s) of real estate on which all or any part of a SES (Solar Energy System) will be constructed.

Property Line: The imaginary line along the ground surface and the vertical extension of that line constitutes a legally enforceable boundary which separates real property owned or controlled by owner(s) from contiguous real property owned or controlled by another person.

RSES: Residential Solar Energy Systems for personal use. These systems are exempt from requiring a permit.

SES: Solar Energy System

Setback Area: The entire land base that falls within the Setback for a SES.

Shade Management / Solar Corridors: The selective cutting/trimming of vegetation to allow sunlight corridors into actual solar panel areas.

Solar Collector: A solar PV cell, panel, 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, Active: 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 System, Building-integrated Photovoltaic (BIPV): A solar energy system that consists of integrated photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

Solar Energy System, Ground-mounted: An active Solar Energy System that is structurally mounted to the ground and is not roof-mounted, may be of any size (small, medium or large scale).

Solar Energy System Photovoltaic (PV): A solar energy system that produces electricity by the use of semiconductor devices called Photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof mounted, ground mounted or pole mounted.

Solar Energy System, Roof mounted: An active Solar Energy System that is mounted on the roof of a building or structure.

Tilt: The angle of the solar panels and/or solar collector relative to horizontal. The optimal tilt to maximize solar production is perpendicular or 90 degrees, to the sun's rays at true solar noon. True solar noon is when the sun is at its highest during its daily east-west path across the sky (this is also known as O" Azimuth). Solar Energy Systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year round. ScaleResidential Solar Energy Systems,

Type 1 RSES (Small Scale): An active Solar Energy System which occupies no more than 2,000 sf or less of surface area projected over a roof or the ground as measured by the total surface area of the solar collector.

Type 2 CSES (Medium Scale): An active Solar Energy System which occupies no more than 20,000 sf of surface area projected over the roof or the ground. Surface area shall be measured by the total surface area of the solar collector.

Type 3 SES (Large Scale)**:** An active Solar Energy System which occupies over 20,000 sf of surface area structurally mounted to the ground and is not roof mounted. Surface area shall be measured by the total surface area of the solar collector.

W: Power in Watts

A. TITLE

This Ordinance shall be known and may be cited as the "New Vineyard Solar Energy Systems Ordinance" and will be referred to herein as the "Ordinance".

B. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution.

C. PURPOSES

1. The Town of New Vineyard finds that it is in the public interest to encourage the development and use of Solar Energy Systems as a clean, renewable energy source and to help promote sustainable initiatives in town.

2. The purpose of the Ordinance is to facilitate the effective and efficient use of Solar Energy Systems while protecting the public health, safety and welfare of New Vineyard citizens.

D. APPLICABILITY

1. The provisions of this Ordinance shall apply to Solar Energy Systems as defined by this Ordinance and by Title 33, Chapter 28-A, MRSA, Section 1421, 1423, within the boundaries of the Town of New Vineyard.

2. The requirements of this Ordinance shall apply to all medium, and large-scale Solar Energy Systems modified or installed, upon adoption by the Town. Residential Solar Energy Systems are exempt.

3. All Solar Energy systems shall be designed, erected and installed in accordance with all applicable local, state and federal codes, regulations and standards.

4. Any modification, upgrade or structural change that materially alters the size, placement or output of an existing Solar Energy System shall comply with this ordinance.

E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, Ordinance, deed restriction or covenant, the more restrictive or higher standard covenant shall govern, unless otherwise prohibited by State Law

F. SEVERABILITY

In the event that any section, subsection or provision of this Ordinance shall be declared by any court or competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Ordinance, to this end, the provisions of this Ordinance are hereby declared to be severable.

G. AMENDMENTS

1. Initiation

   An amendment to this Ordinance may be initiated by one of the following:

a. The Planning Board, provided a majority of the board has so voted.

b. Request of the Board of Selectpersons to the Planning Board.

c. Written petition of 10% of the number of registered voters who voted in the most recent gubernatorial election, in accordance with 30-A MRSA 2522 or 2528.

2. Hearings

All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board shall hold a public hearing at least 30 days before the Town Meeting vote on any proposed amendment and shall make a written recommendation to the Board of Selectmen within 30 days from the public hearing.

3. Majority Vote

After receiving the recommendation of the Planning Board, the amendment may be adopted or rejected by majority vote of the voters at an Annual Town Meeting.

H. EFFECTIVE DATE

This Ordinance, when adopted, and any amendments thereto shall be effective immediately following its/their adoption or approval at an Annual Town Meeting or special Town Meeting. A copy of this Ordinance, certified by the New Vineyard Town Clerk shall be filed with the New Vineyard Town Clerk.

I. PERMITTING

1. Solar Energy Systems or devices shall be installed or operated in New Vineyard in compliance with this ordinance and any other applicable local, state and federal regulations or codes.

2. Small scale solar thermal, building-integrated photovoltaic, building mounted photovoltaic, roof mounted and ground mounted Solar Energy Systems are permitted in all districts as referenced in the New Vineyard Comprehensive Plan unless prohibited by law.

3. Medium and large-scale ground-mounted Solar Energy Systems are prohibited in the following districts as referenced in the New Vineyard Comprehensive Plan: Mountainside and Resource Protection. Solar Energy Systems are permitted in the following districts: Growth, Rural and Village Center. Such Solar Energy Systems shall obtain a building permit. Any commercial application shall be accompanied by a fee of $500.00.

4. A separate planning services fee shall be required by the Board upon submission of a sketch plan to cover planning review costs performed by the contract planner and Town staff, in accordance with the fee schedule established by the Town Council. If the balance in this account is drawn down by 75%, the Board shall notify the applicant and require that an additional amount equal to the original fee be deposited by the applicant. The Board shall continue to notify the applicant for additional amounts as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any unused funds will be returned to the Applicant following Planning Board determination.

J. SUBMITTAL REQUIREMENTS FOR SITE PLAN REVIEW OF SOLAR ENERGY SYSTEMS

The following information shall be submitted with a Site Plan Application for a review of a solar energy system and associated facilities under this ordinance.

1. A narrative describing the proposed solar energy system, including an overview of the project; the project location; the generating capacity of the solar energy system; dimensions of all components and respective manufacturers; and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance (including a plan or other graphics that demonstrate compliance). Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the side or rear of the site.
2. An accurate scaled site plan of the subject property showing the planned location of the proposed energy system and all associated facilities, property lines, adjoining streets and access, topographic contour lines, existing and proposed buildings, fencing, structures, potential shade from nearby trees and structures, vegetation, driveways, parking and curb cuts on the subject property; and specification for all proposed electrical cabling/ transmission lines, accessory equipment and landscaping.
3. A scaled elevation drawing showing the proposed solar energy system and all proposed structures, foundations, supports, fencing, vegetation and landscaping, indicating the size, color and materials of the system. Drawings of structures and foundations shall be stamped by a licensed Professional Engineer.
4. Information on any proposed connections to the grid including any proposed off-site modifications to provide grid connections, access the installation or to maintain proposed solar energy system and grid connections.
5. In the case of medium and large ground mounted solar energy systems, the applicant shall provide Operations and Maintenance Plan, including site control and the projected operating life of the system, prepared and stamped by a licensed Professional Engineer or other licensed professional as appropriate.
6. If the location of the project is to be leased, proof of legal consent between all parties specifying the use of the leased area for the duration of the project including any leasing agreement, easements and other agreements between the parties including rights and responsibilities of the operator, landowner and any other responsible party with regard to the project shall conform to the requirements of this ordinance.

K. DIMENSIONAL REQUIREMENTS

1. Height
    a) Building-integrated photovoltaic systems and roof mounted solar energy systems shall not exceed the maximum allowed building height or peak of the roof whichever is greater, in the district they are proposed to be located. Regarding non-residential uses, roof mounted solar energy systems shall be considered comparable to a building appurtenance and for purposes of height measurement, shall be consistent with other

building mounted mechanical devices or similar building appurtenances but not greater than 16' as determined by the Code Enforcement Officer or Planning Board.

b) Medium and large scale ground mounted solar energy systems shall be no greater than 16' from the highest point of any solar panel to the ground directly beneath it.

2. Setbacks

a) All ground mounted solar energy systems shall be regulated by the dimensional setback regulations stipulated in the Shoreland Zoning Ordinance or as prescribed in other sections of this ordinance.

b) Residential ground mounted solar energy systems shall not be located in front yards unless there is no other site that is usable as determined by the CEO. They shall be sited at least fifty (50) feet from all property lines and rights of way.

c) For medium and large scale solar energy systems (SES) intended to produce energy for offsite sale, the minimum setback shall be 200 Ft. as measured from the fence line of the SES to a right of way line or any public or private roadway. Setback from all side and property boundaries as measured from the fence line of the SES shall be 100 Ft. Setback from any dwelling or accessory building located on another parcel shall be 400 Ft.

d) Lot coverage/calculating medium or large solar energy systems shall not be more than 25% of all acreage on that site and the remaining land cannot be used for any other tax reducing, i.e. tree growth, homesteading projects.

e) In order to prevent circumvention of the size and coverage restrictions, the lot or parcel will be considered to be the largest configuration of physical area that existed as a lot or parcel within the 5 years immediately preceding the application.

f) Lease arrangements may not be used to circumvent size and coverage restrictions such that the parcel exceeds 25% of the original parcel.

L. STANDARDS FOR APPROVAL OF BUILDING INTEGRATED, BUILDING MOUNTED PHOTOVOLTAIC, ROOF MOUNTED AND GROUND MOUNTED SOLAR ENERGY SYSTEMS.

1. All wiring must comply with the National Electrical Code, most recent edition, prior to operation, electrical connections must be inspected by a licensed electrician, hired by the applicant and reviewed by the Code Enforcement Officer or their designee.

2. Any connection to the public utility grid must be inspected by the appropriate public utility unless waived by the public utility.

3. Roof mounted and building mounted solar collectors shall meet all applicable fire safety and building code standards.

4. No solar panels or other solar energy equipment used in any solar energy system shall utilize or contain any amount of GenX chemicals or polyfluoroalkyl substances (PFAS).

M. STANDARDS FOR APPROVAL OF MEDIUM AND LARGE SCALE GROUND MOUNTED SOLAR ENERGY SYSTEMS.

The Application meets the Review Standards contained within this Ordinance.

1. Site Access: Access to the site will not cause highway or public road congestion or unsafe conditions. Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

2. Preservation of Landscape: The landscape has been preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where possible and keeping any grade changes in character with the general appearance of neighboring areas.

3. Preservation of Natural Features: Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to water bodies.

    a) Aquatic and Wetland Habitat: The Application has been designed to have no impact to spawning grounds, fish, aquatic life, and their related habitat. The Applicant has provided approval from the Maine Department of Inland Fisheries and Wildlife (IF&W).

    b) Other Species Habitat: The Application has been designed to have minimal impacts other wildlife species and their related habitat. The Applicant has provided approval from the Maine Department of Inland Fisheries and Wildlife (IF&W).

4. Safety: No solar panels or other solar energy equipment used in any solar energy system shall utilize or contain any amount of GenX chemicals or polyfluoroalkyl substances (PFAS).

5. Stormwater Management: The Application includes a Stormwater Management Plan to control / reduce runoff of rainwater / melted snow and is in full conformance with the Maine DEP Stormwater Management Rules.

6. Erosion Control: The Application provides erosion control measures to prevent unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. Erosion of soil and sedimentation of watercourses and water bodies will be minimized by employing the best management practices specified in the Maine Erosion and Sediment Control BMP Manual as amended.

7. Screening: The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such

as noise, visual impacts (equipment, security fencing, buildings, etc.), glare, dust, odor and the like have been provided.

8. Relationship of proposed buildings / structures / equipment to the environment: Proposed structures and developments areas have been related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building(s). Special attention has been paid to retaining natural features such as slope, soils, scenic vistas, and drainage-ways. Proposed structures and developments, where applicable, have established relationships with adjoining open spaces, land uses, historic districts and other elements.

9. Internal vehicular / pedestrian circulation: The layout of the site provides for the safe movement of passenger, service and emergency vehicles throughout the site. The application provides for vehicular and pedestrian safety, all-season emergency access, snow removal and storage, and delivery and collection services.

10. Utilities: All utility installations will be located so as not to be unsightly or hazardous to the public and will be landscaped or otherwise buffered so as to screen the components from public view.

11. Site Lighting: Lighting, if applicable, will be controlled in both height and intensity to maintain rural character of the Town. The light source proposed is “dark skies compliant” and down mounted / shielded to prevent it from shining directly onto neighboring properties.

12. Air Glare Protection: Solar Panels are anti-reflective materials (abbreviated by the Federal Aviation Administration (FAA) as “AR”). The Applicant has notified area airports and the FAA for their review and two (2) week comment period. Copies of all correspondence have been provided to the Town.

13. Air Pollution: The Application will not result in undue air pollution. The air pollution regulations of the Maine Department of Environmental Protection will remain in effect. The Application includes a statement of compliance with MDEP regulations.

14. Dust, Fumes, Vapors, Gases and Odors: The development will not produce harmful, offensive or bothersome odors, scents, or aromas that will be perceptible beyond their lot lines, either at ground or habitable elevation. Will not cause noise, odor, glare or vibration to disturb the peaceful enjoyment of adjacent property.

15. Water Supply: Has sufficient water available for the reasonably foreseeable needs of the proposed use including fire protection.

16. Water Quality: The development will not lower the existing water quality of on-site or adjacent rivers, streams, brooks, wetlands, ponds, lakes, or groundwater. Adequate

provision have been made for the storage and disposal of any hazardous or potentially harmful materials which may impact water quality. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

17. Sewage Disposal: Sewage will be disposed in conformity with laws and rules of the Maine Department of Environmental Protection, and/or the State Plumbing Code and other applicable regulations.

18. Waste Disposal: Adequate provisions have been made for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner.

19. End of Life - Site Restoration Plan: The proposal includes an acceptable "End of Life - Site Restoration Plan and Narrative" which complies with the regulations and intent of the Ordinance.

20. Financial/Performance Guarantees: The applicant has adequate financial and technical capacity to meet the standards required by this Ordinance.

N. SCREENING, MAINTENANCE AND REGULATORY COMPLIANCE

1. Subject to the approval of the New Vineyard Planning Board, the project parcels on which the ground mounted solar energy systems are located shall be protected by an 8 Ft. perimeter fence located around the solar farm. A 6 inch gap under the fence shall be required to allow small wildlife to cross through the solar farm. One or more signs shall be affixed to the fence identifying the owner of the facility and emergency contact information.

2. For purposes of emergency services, the owner or operator of a ground mounted solar energy system shall provide a copy of the project summary, electrical schematic and site plan to the Code Enforcement Officer. Upon request, the owner or operator shall cooperate with the Fire Department in developing an Emergency Response Plan. All means of shutting down the system shall be clearly marked on the plan. The owner or operator shall designate a responsible person to the Code Enforcement Officer for public inquiries throughout the life of the installation.

3. The owner or operator of a ground mounted solar system shall maintain the facility in good condition. Maintenance shall include but not limited to painting, structural repairs, vegetation control (town authorized) and integrity of security measures. Site access shall be maintained to a level acceptable to the Code Enforcement Office and/or New Vineyard Fire Chief. The owner or operator shall be responsible for the cost of maintaining the access roads unless the road is accepted as a public way.

4. The owner or operator of a ground mounted solar energy system shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations and Ordinances.

5. A Waste Stream Management Plan for the construction waste and debris at the site, including but not limited to cardboard, wood, scrap metal, scrap wire and clearing

and grading wastes, from the construction site and the disposal site of such waste. Information on the amount of material that is being recycled shall be included in this plan. The Code Enforcement Officer shall conduct a final inspection to ensure compliance with the approved plan.

O. GUARANTEE OF REMOVAL

At the time of approval of a proposed solar farm and prior to initiating construction of any solar farm within the Town of New Vineyard, the applicant must guarantee the cost for the removal of the facility and site restoration in conformance with Planning Board approved restoration plan.

1. The amount of the guarantee shall be equal to 125% of the estimated removal cost, provided by the applicant and certified by a Professional Civil Engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the Solar Energy System.
2. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security such that the guarantee shall remain equal to 125% of the estimated removal cost. The applicant may also request adjustments in the guarantee.
3. In case of a leasing arrangement the operator shall be responsible for the guarantee.

P. TYPES AND CONTENTS OF GUARANTEE

One of the following performance guarantees chosen by the applicant shall be provided on approval of application.

1. Interest-bearing Escrow Account – A cash contribution equal to 125% of the estimated removal cost for the establishment of an escrow account shall be made by either a certified check made out to the Town of New Vineyard, direct deposit into a savings account or purchase of a certificate of deposit.
2. For any account opened by the applicant, the Town shall be named as owner or co-owner and consent of the Town shall be required for withdrawal.
3. Any interest earned on the escrow account shall be returned to the applicant unless the Town has found it necessary to draw on the account, in which case the interest shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required work.

Q. DECOMMISSIONING AND REMOVAL

1. Any ground mounted solar energy system that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the New Vineyard Planning Board during the application process. The applicant/owner of the facility shall physically remove the installation no more than 180 days after the date of discontinued operations. The applicant/owner of the facility shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

2. If the owner or operator of a ground mounted solar energy system fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of New Vineyard retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.

3. Decommissioning shall consist of:

   a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.

   b) Disposal of all solid and hazardous waste in accordance with Local, State and Federal Waste Disposal regulations

   c) Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, ground mounted solar energy systems shall be considered abandoned when it fails to generate electricity for more than one year without having first obtained written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code enforcement Officer.

   d) Stabilize and re-vegetate the site as necessary to minimize erosion. The lot shall be restored to its pre-development condition.

R. AUTHORITY

1. This Ordinance is adopted pursuant to the enabling provision of Article VIII, Part 2, Section 1 of the Maine Constitution, provisions of 30-A, M.R.S. 3001, Ordinance Power and the provisions of 30-A, M.R.S. 4352, Zoning.

2. To the extent that any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision shall be removed from the Ordinance and the balance of the Ordinance shall remain valid.

S. EFFECTIVE DATE AND DURATION

This Ordinance shall take effect on _____ upon enactment by the Town of New Vineyard unless otherwise provided and shall remain in effect until it is amended or repealed.

T. ENFORCEMENT VIOLATIONS AND PENALTIES

This Ordinance shall be enforced by the municipal officers or their designee. Violation of this Ordinance shall be subject to the enforcement and penalty provisions of 30-A, M.R.S. 4453, Enforcement of Land Use Laws and Ordinances.