# Town of Island Falls
# Solar Energy Systems Ordinance

ORIGINAL

**Section 1. Title**

This Ordinance shall be referred to as the "Town of Island Falls Solar Energy Systems Ordinance".

**Section 2. 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:

2.1 Establish clear guidelines, standards, and time frames for the Municipality to regulate Solar Energy Systems;
2.2 Permit the Municipality to fairly and responsibly protect public health, safety, and welfare;
2.3 Minimize any potential adverse effects of solar development on surrounding land use;
2.4 Provide for the decommissioning and removal of solar collectors and associated utility structures that are no longer being used for energy generation and transmission purposes; and
2.5 Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural, scenic, and agricultural resources of the Town.

**Section 3. Applicability**

Solar Energy Systems (SES) are subject to location and permitting requirements as set forth in this Ordinance.

3.1 An SES approved for construction prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance
3.2 Any physical modification to any existing SES, whether or not existing prior to the effective date of this Ordinance, that expands or relocates the footprint of the SES, shall require approval under this Ordinance. Routine maintenance or replacements do not require a permit.
3.3 A permit issued pursuant to this Ordinance may not be transferred without notice to, and approval by, the Planning Board. If a transfer is approved, all conditions of the original permit will be binding upon subsequent permit holders.
3.4 Applications for Site Plan Review shall be submitted on application forms provided by the Town. Completed application form(s), required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer. The determination whether an application is complete will be made by the Island Falls Planning Board. See Table 1 for general information.

Table 1.

| Scale of SES | Ground-space definitions | Power definitions | Application fee | Permit fee |
|---|---|---|---|---|
| Commercial Solar Energy Systems (CSES) | **≥ 3,000 square feet < 2 acres (87,120 square feet)** | ≥ 31 kW < 500 kW | $500 | $1.00 per kW |
| Industrial Solar Energy Systems (ISES) | **≥ 2 acres (87,120 square feet)** | ≥ 500 kW | $2,500 | $1.00 per kW |
| Private Residential Solar Energy Systems (PRSES) | **< 2,000 square feet** (additional terms apply) | < 21 kW | Subject to terms of the Island Falls Building Code | No permit fee required |
| Residential-Business Solar Energy System (RBSES) | **< 3,000 square feet** | < 31 kW | $150 | $1.00 per kW with a min. of $25 |

***See "Section 4. Definitions" and "Section 5. Application and Permit Fee" for detailed descriptions**

**Section 4. Definitions:**

Commercial Solar Energy Systems (CSES): Any SES with a total area projected over the ground equal to or greater than 3,000 square feet but less than 2 acres (87,120 square feet), or that generates a nameplate capacity of 31 kW or more, but less than 500 kW is a CSES. Multi-investor ownership (see definition) is also included in this definition.

Industrial Solar Energy Systems (ISES): Any SES with a total area projected over the ground equal to or greater than 2 acres (87,120 square feet) or that generates a nameplate capacity of 500 kW or greater is an ISES. Multi-investor ownership (see definition) is also included in this definition.

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

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

Megawatt Hour (MWh): 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.

Multi-investor ownership: For purposes of this ordinance, and for other considerations by the Town, including the ability of the town to impose and collect property and personal taxes, and notwithstanding any ownership and financing arrangements of the applicant, the calculation of total area projected over the ground and the calculation of total rated nameplate capacity shall be the sums of the total area and rated nameplate capacity of all individual solar-related equipment which collectively makes a single connection to an electrical power transmission and distribution system.

Private Residential Solar Energy Systems (PRSES): A PRSES is any SES with a total area projected over the ground less than two thousand (2,000) square feet in surface area, with a rated nameplate capacity of less than 21kW, and which is designed, engineered and constructed to primarily provide electrical power to the residential property on which it is constructed, and does not provide electrical power directly to any structure or use away from the residential property on which it is constructed, and delivers any excess electrical energy not used on premises only to an electrical transmission and distribution system through a grid-tied or similar system under the terms of a signed Customer Net Energy Billing Agreement as defined in M.R.S.A. Title 35-A: §3209 or related statutes.

An SES licensed under this definition which later is modified so that it fails in one or more ways to comply with this definition shall be re-classified to a higher class, and subject to the rules covering that class of SES. Multi-investor ownership (see definition) is also included in this definition.

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

Rated Nameplate Capacity. The maximum rated output of electric power production of the photovoltaic system, expressed in kW.

Residential-Business Solar Energy System (RBSES): Any SES with a total area projected over the ground of less than 3,000 square feet, or with a rated nameplate capacity of less than 31 kW is a RBSES. Multi- investor ownership (see definition) is also included in this definition.

SES Permit Holder: Any person, party, or business entity that has been issued a Town of Island Falls SES Permit for the purpose of developing, constructing, testing, operating, maintaining, repairing, leasing, owning, or using the SES as approved under the Town of Island Falls Solar Energy System Ordinance.

Solar Array. A grouping of multiple solar modules with the purpose of harvesting solar energy. See *Solar Energy System, Solar Farm.*

Solar Collector: any type of means of collecting solar energy

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

Solar Energy System (SES): a solar photovoltaic cell, module, or array, or solar hot air or water collector device, including all Solar Related Equipment, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

Solar Energy System, Ground-Mounted. A Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (ISES, CSES, RBSES, PRSES).

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 but may require additional engineering certification to document the ability of the roof to support it (ISES, CSES, RBSES, PRSES).

Solar Related Equipment. Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, fencing, foundations or other structures used or intended to be used for collection and management of solar energy.

**Section 5. Application, Permits, Fees.**

5.1 Prior to submitting a SES application, a meeting with the Planning-Board is required. The applicant shall initiate the meeting, to discuss topics such as the application requirements, review process, and standards.

5.2 Within 30 days of receipt of a written application, the applicant will be notified if their application is complete or incomplete. If an application is deemed incomplete, a list of outstanding items will be included in the notification letter.

5.3 Application Fee:

5.3.1 Industrial Solar Energy Systems (ISES). The Application Fee is $2,500.

5.3.2 Commercial Solar Energy Systems (CSES). The Application Fee is $500.

5.3.3 Residential Business Solar Energy System (RBSES). The Application Fee is $150.

5.3.4 Private Residential Solar Energy Systems (PRSES). For the purpose of assessing application fees for Private Residential Solar Energy Systems, the SES shall be considered an Accessory Structure or Use as defined in the Town of Island Falls Building Code Ordinance, and any application fee shall be assessed accordingly.

5.4 Permit Fee:

5.4.1 ISES, CSES, and RBSES - $1.00 per kW with a minimum fee of $25.

5.4.2 There is no permit fee for PRSES.

5.5 Expiration

Permits shall expire one year from the date of issuance, unless a substantial start in construction is made during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**Section 6. Specific Application Requirements**

In addition to the application for an *Industrial Solar Energy Systems (ISES), and Commercial Solar Energy Systems (CSES)* Permit, other elements may be required by the general Ordinances of the Town of Island Falls and codes. The application must include the following, at the cost of the applicant:

6.1 Name, address, and telephone number of applicant, property owner, SES owner, and SES operator.

6.2 Detailed description of technical and financial capacity to construct, operate, and maintain the proposed SES.

6.3 Evidence of applicant's right, title, and interest in subject property, including any easements necessary for construction and access. If the permit holder will be leasing the land, a copy of the agreement clearly outlining the relationship, inclusive of the rights and responsibilities of the operator, landowner and any other responsible party with regard to the SES and the life of the agreement.

6.4 A copy of the project summary, electrical schematic, and site plan to be delivered to the Fire Chief.

6.5 A description of how and to whom the energy produced will be sold.

6.6 A copy of the agreement and schematic details of the connection arrangement with the electrical power transmission and distribution system, clearly indicating which party is responsible for various requirements and how they will be operated and maintained.

6.7 Certification that the layout, design, and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with local ordinances, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

6.8 A description of the solar collectors to be installed, including make and model, and associated major system components.

6.9 A construction plan and timeline, identifying known contractors, site control and anticipated on- line date.

6.10 An operations and maintenance plan, including site control and the projected operating life of the system; Such a plan shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation. Additionally, such plans shall include efforts to promote beneficial flora and fauna (e.g. honeybees, butterflies, etc.) as well as a commitment to not using pest-control substances (e.g. pesticides, herbicides, fungicides, and/or insecticides).

6.11 An emergency management plan for all anticipated hazards.

6.12 A stormwater management plan, certified by a professional engineer licensed in Maine, that demonstrates stormwater from the SES will infiltrate into the ground beneath the SES at a rate equal to that of the infiltration rate prior to the placement of the system.

6.13 A background noise measurement for the site location as performed by a qualified professional.

6.14 Proof of financial capacity to construct and operate the proposed facility.

6.15 A decommissioning plan, including:

6.15.1 A description of the trigger for implementing the decommissioning plan. There is a rebuttable 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 providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

6.15.2 A description of the work required to physically remove all Solar Energy System and Solar 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 Solar Energy System. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.

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

6.15.4 At the time of approval of a proposed SES, and prior to starting construction of an SES, the applicant must guarantee to cover the costs of removal of the facility:

The amount of the guarantee shall be equal to the estimated SES removal cost provided by a licensed professional engineer; or an estimate provided by a professional array construction company.

- These estimates to be provided by the applicant.
  - An updated estimate shall be provided by the applicant to the town every five (5) years from the date of the permit issued, using these types of estimate sources.
  - If the estimated cost increases more than 15% from the previous estimate, the facility owner shall provide additional security in the amount of the increase.
- Type and contents of guarantee – Interest Bearing Escrow Account.
  - A cash contribution equal to the estimated removal cost shall be made by either a certified check made out to the Town of Island Falls and deposited into a savings account, or the purchase of a certificate of deposit:
  - For any account opened by the applicant, the Town of Island Falls shall be named as the owner or co-owner, and the consent of the Town of Island Falls shall be required for a withdrawal.
  - 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 earned shall be proportionally divided between the amount returned to the applicant and the amount withdrawn to perform the necessary work.
- Type and contents of guarantee – Performance Bond.
  - A Performance Bond shall detail the condition of the bond, the method for release of the entire bond or portions thereof to the Town of Island Falls, and the procedures for collection by the Town.
  - The bond documents shall specifically reference the SES facility for which approval is sought.
- A bank holding a savings account or certificates of deposit, and a company issuing performance bonds, must be established institutions licensed to operate in the State of Maine.

**Section 7. Standards for Approval**

In addition to any application for any SES permit, other elements may also be required by the general Town of Island Falls ordinances and codes. In addition, the following standards must also be met:

*7.1* *Industrial Solar Energy Systems (ISES) and Commercial Solar Energy Systems (CSES):*

*7.1.1* Lots - SES shall not exceed 20% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground.

*7.1.2* Legal Responsibilities - The Applicant must demonstrate that it has authorization to construct, use and maintain the property and any access drive for the life of the project, including the decommissioning of the project. The roles and responsibilities of the permit holder, system owner, operator, landowner and any other party involved in the project must be clearly described. The permit holder 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.

*7.1.3* Recording - All approved permits for Industrial Solar Energy Systems (ISES) and Commercial Solar Energy Systems (CSES) shall be recorded at the Southern Aroostook County Registry of Deeds within seven (7) calendar days of approval and before project construction may begin.

*7.1.4* Setback and Dimensions - Structures within a SES shall be set back a minimum of 200 feet from all lot lines. Any solar collector device shall be a maximum height of 15 feet when oriented at maximum tilt above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings as per Town of Island Falls ordinances and codes.

*7.1.5* Prohibited Locations – Components of a ground-mounted SES shall not be placed within any stormwater conveyance system, nor constructed in any other manner that could impede stormwater runoff from collecting in a constructed stormwater conveyance system, or that could impact an adjacent property's water supply (i.e. a domestic well) or septic system.

*7.1.6* Utility Notification - No grid-intertied photovoltaic system shall be constructed or installed until evidence has been given to the Planning Board that the applicant has an agreement with the utility to accept the power. Off-grid systems are exempt from this requirement.

*7.1.7* Fence - Ground Mounted Solar Energy Systems shall be enclosed by a project-appropriate perimeter fence

*7.1.8* Signage - A sign shall be required to identify the permit holder and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on any fence surrounding the SES informing individuals of potential voltage hazards.

*7.1.9* Screening - Lots on which Ground Mounted Solar Energy Systems are located shall utilize buffers / screening from roads and residences by plantings, berms, and natural topographical features. Ground mounted SES shall be screened from view to the greatest extent practical from any adjacent property that is residentially zoned or used for residential purposes, as well as from any public way. The screen shall consist of a vegetative barrier which provides a visual screen. In lieu of a vegetative screen, a fence that provides visual screening, and meets requirements of the controlling ordinance, may be allowed only if a vegetative screen is deemed impractical by the Planning Board..

*7.1.10* Glare - All SES shall be situated to eliminate concentrated glare onto nearby structures, public or private ways, or any otherwise non-SES associated property.

*7.1.11* Noise - No noise generated by the SES or Solar Related Equipment shall be 10 decibels (dB) greater than the preconstruction / existing background level, nor generate a Pure Tone. The background noise limit will be based on background noise during the quietest period of the night, typically 3:00 a.m.

*7.1.12* Lighting -Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light. Other than required lighting, lighting shall not be used or visible between 9:00 p.m. and 7:00 a.m.

*7.1.13* Storm Stormwater Management Plan – A stormwater management plan shall be developed for the site for pre and post development conditions, including impervious assessment.

*7.1.14* Utility Connections - Reasonable efforts shall be made to place all utility connections from the solar collector installation 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 ground if required by the utility provider.

*7.1.15* Emergency Services – SES permit holder shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the permit holder shall coordinate with

local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX", or agreed equivalent, shall be provided and installed by the permit holder to be used to allow emergency service personnel continuous access. All means of shutting down the solar energy system shall be clearly marked. The permit holder shall identify a responsible person for public inquiries throughout the life of the system.

*7.1.16* Maintenance Conditions - The SES permit holder shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, vegetative screening, fences, landscaping and plantings, and integrity of security measures. The SES must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Site access shall be maintained to a level acceptable to the Fire Chief for emergency response. The permit holder shall be responsible for the cost of maintaining the SES and any access road(s), including regular plowing of snow to maintain road access.

*7.1.17* Satisfaction with All Aspects of Capacity and Plans Submitted -- The Planning Board must find that the Applicant has the capacity to finance, safely operate, and decommission the SES.

*7.1.18* Removal - When any portion of a ground mounted SES is removed, any earth disturbance must be graded and re-seeded, unless authorized for another developed use.

*7.1.19* Alternatives Assessment - Should a proposed ground-mounted SES 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.

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

*7.1.21* Liability Insurance Requirement – Permit holder shall provide evidence of a minimum $1 million liability insurance policy.

*7.2* *Residential-Business Solar Energy System (RBSES) or Private Residential Solar Energy Systems (PRSES):*

*7.2.1* Lots – SES shall not exceed 10% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.

*7.2.2* Setback - Structures within a SES shall be setback a minimum of 50 feet from the side and rear property lines and meet the front setback requirements for structures within the zoning district. Any solar photovoltaic cells, arrays, or other solar collector type components, shall be subject to a maximum height of 15 feet when oriented at maximum tilt above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings as per Town of Island Falls Ordinances and codes.

*7.2.3* Prohibited Locations – Components of a ground-mounted SES shall not be placed within any stormwater conveyance system, nor constructed in any other manner that could impede stormwater runoff from collecting in a constructed stormwater conveyance system, or that could impact an adjacent property's water supply (i.e. a domestic well) or septic system.

*7.2.4* Signage - Solar energy systems shall not be used for displaying any advertising.

*7.2.5* Screening - Lots on which Ground Mounted Solar Energy Systems are located may, at the direction of the Planning Board or Code Enforcement Officer, be required to utilize buffers/ screening from roads and residences by plantings, berms, and natural topographical features. If deemed required, ground mounted SES shall be screened from view of any adjacent property that is residentially zoned or used for residential purposes, as well as any public way. The screen shall consist of a vegetative barrier which provides a visual screen. In lieu of a vegetative screen, a fence that provides visual screening, and meets requirements of the controlling ordinance, may be allowed only if a vegetative screen is deemed impractical by the Planning Board.

*7.2.6* Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures, public or private ways, or any otherwise non-SES associated property.

*7.2.7* Lighting - Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with 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 / visible between 9:00 pm and 7:00 am.

*7.2.8* Preservation of Town's Character - All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES 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, and associated Town planning documents.

*7.2.9* Liability Insurance Requirement – Permit holder shall provide evidence of a liability insurance policy.

*7.3* Roof Mounted Solar Energy Systems:

7.3.1 The permit holder shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the SES.

7.3.2 SES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings as per Town of Island Falls Ordinances and codes.

7.3.3 Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures, public or private ways, or any otherwise non-SES associated property.

7.3.4 On roofs with chimneys, panel layout and design shall ensure that adequate access is provided to chimneys and vents for cleaning, maintenance, and firefighting. At a minimum, this should provide direct unimpeded access over the surface of the roof to the chimney or vent in such a way that it will not damage the panels. This may be over the unencumbered side of the roof, or by a 3 foot lane below and beside the chimney or vent sufficient to allow placement of a roof ladder. Sufficient clearance should be provided from the peak for movement of firefighters along the peak and placement of roof ladder hooks.

7.3.5 Preservation of Town's Character - All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

**Section 8. Decommissioning and Removal**

8.1 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 Planning Board during the application process. The landowner, or SES permit holder shall complete removal of the installation no more than 180 days after the date of discontinued operations. The permit holder shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

8.2 Decommissioning and removal shall consist of:

8.2.1 physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;

8.2.2 disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and

8.2.3 stabilization and re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the permit holder to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.

8.3 Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Ground Mounted Solar Energy System shall be considered abandoned when it fails to generate 10% or less permitted capacity of electricity for a continuous period of twelve (12) months without having first obtained the written consent of the Code Enforcement Officer. The SES entity may be required to submit an annual report of power generation to the Town of Island Falls. Determination of abandonment shall be made by the Code Enforcement Officer.

8.4 If the permit holder 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 discontinuation of operations, the Town of Island Falls retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous, or decommissioned SES to be removed.

**Section 9. Modifications**

9.1 Any physical modification to any existing SES, whether or not existing prior to the effective date of this Ordinance, shall require review and approval under this Ordinance.

9.2 Any modifications to an Industrial Solar Energy Systems (ISES) or Commercial Solar Energy Systems (CSES) made after issuance of the required town permit(s) shall require approval by the Planning Board.

9.3 Any modifications to a Residential-Business Solar Energy System (RBSES) or Private Residential Solar Energy Systems (PRSES) made after issuance of the required town permit(s) shall require approval by the Code Enforcement Officer.

9.4 Application fees for modifications shall be based upon the overall size of the SES, not solely the modification.

9.5 Permit fees for modifications shall be based on the modified portion of the SES.

**Section 10. Appeals**

10.1 Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

10.1.1 **Administrative Appeals**: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

10.1.2 **Variance Appeals**: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

10.2 **Variance Appeals**. Variances may be granted only under the following conditions:

10.2.1 Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

10.2.2 Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

10.2.3 The Board shall not grant a variance unless it finds that:

The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

- That the land in question cannot yield a reasonable return unless a variance is granted;
- That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- That the granting of a variance will not alter the essential character of the locality; and
- That the hardship is not the result of action taken by the applicant or a prior owner.

10.2.4 The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

10.2.5 A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

## 10.3 Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board of Appeals may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

## 10.4 Appeal Procedure

### 10.4.1 Making an Appeal

10.4.1.1 An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section F below. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

10.4.1.2 Applications for appeals shall be made by filing with the Board of Appeals, a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

10.4.1.3 Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

10.4.1.4 The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

### 10.4.2 Decision by Board of Appeals

10.4.2.1 A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.

10.4.2.2 The person filing the appeal shall have the burden of proof.

10.4.2.3 The Board of Appeals shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

10.4.2.4 The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board of Appeals shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

10.5 **Appeal to Superior Court**. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

10.6 **Reconsideration**. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## Section 11. Enforcement

11.1 **Nuisances**. Any violation of this Ordinance shall be deemed to be a nuisance.

11.2 **Code Enforcement Officer**

11.2.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she 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, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

11.2.2 The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

11.2.3 The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

11.3 **Legal Actions**.
When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to 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 the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

11.4 **Fines**.
Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

**NOTE**: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to $5000 (38 M.R.S.A. section 4452).

**Section 12. Authority**

12.1 This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, provisions of 30-A, M.R.S. § 3001, Ordinance Power, the provisions of 30-A, M.R.S. § 4352, Zoning, and the provisions of Title 30-A §4311 et seq. (Comprehensive Planning and Land Use Regulation, or "Growth Management" Act).

12.2 The Island Falls Planning Board is vested with the authority to approve, approve with conditions, or reject any application for a Solar Energy System (SES) as defined in this ordinance.

12.3 The Island Falls Planning Board may hire independent professional consultants to review SES applications to determine: a) the impact to nearby properties, b) public safety implications, or c) address other issues with a SES application.

12.4 The cost (if any) for such professional consultancy shall be borne by the applicant. The Board will notify the applicant with the consultant's name and qualifications, the reason for the consultation, and the estimated cost. The Board will work with the applicant to arrange a payment schedule for this cost.

12.5 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.

12.6 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.

**Section 13. Effective Date and Duration**

This Ordinance shall take effect on 05/31/2023, upon enactment by the Town of Island Falls at the Special Town Meeting unless otherwise provided and shall remain in effect until it is amended or repealed.

**Section 14. 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. § 4452, Enforcement of Land Use Laws and Ordinances.

Adopted by voters at the Special Town Meeting, 05/31/2023

Select Board Island Falls,

Frank Porter

James Lord

Royden Hunt

Rebecca Drew

TOWN OF ISLAND FALLS
68 HOULTON ROAD
ISLAND FALLS ME 04747

**Town of Island Falls, County of Aroostook,**

To: Theodore Hartin, a resident of the Town of Island Falls, in the County of Aroostook, and State of Maine:

**Greetings:**

In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of Island Falls, qualified to vote in Town affairs, to assemble at the Island Falls Municipal Building, on **Wednesday, the 31st day of May, 2023 A.D. at 6:00 in the evening,** then and there to act on Articles 1 through 2 as set out below, to wit:

---

ARTICLE 1

To elect by written ballot a Moderator to preside at said meeting.

---

ARTICLE 2

To see if the Inhabitants of the Town of Island Falls do authorize the Selectboard to enact the Ordinance on Solar Energy Systems.

---

Given under our hands at said Town of Island Falls, Maine, this 24th Day of May, 2023

Frank Porter, Chairman

Rebecca Drew

James Lord

Royden Hunt

Selectboard
Town of Island, Maine 04747

Attest:
Melissa Walker
Town Clerk, Island Falls, Maine 04747

TOWN OF ISLAND FALLS
68 HOULTON ROAD
ISLAND FALLS ME 04747

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