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Attest:  
Pamela Adams  
Town Clerk  
Enacted  
11/02/2021

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# NEW SHARON SOLAR ENERGY SYSTEMS ORDINANCE

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# Solar Energy Systems Ordinance

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# Definitions

**Applicant:** Person or persons or entity applying for a permit or license to the Town of New Sharon.

**CEO:** Code Enforcement Officer

**CSES:** Commercial Solar Energy Systems

**Permit:** Written permission issued by the Town of New Sharon, 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 I 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, is exempt from needing a permit.

**SES:** Solar Energy System

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

**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 0° Azimuth). Solar Energy Systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year round.

**Type 1RSES:** Residential Solar Energy Systems, Small scale. An active Solar Energy System which occupies no more than 2000 sf/20kw or less of surface area. Surface area shall be measured by the total surface area of the solar collector is exempt from Ordinance.

**Type 2CSES:** A commercial Solar Energy System, medium scale. An active Solar Energy System which occupies no more than 20,000 sf/250kw of surface area. Surface area shall be measured by the total surface area of the solar collector.

**Type 3 SES:** Solar Energy System, large scale. An active Solar Energy System which occupies over 20,000 sf of surface area. 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 Sharon 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 Sharon 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 Sharon 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 Sharon.
2. The requirements of this Ordinance shall apply to all medium, and large-scale Solar Energy Systems modified or installed after \_\_\_\_\_.
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 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.
- d. An individual may initiate an amendment through any of the above methods.

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 Sharon Town Clerk shall be filed with the New Sharon Town Clerk.

I. PERMITTING

- 1. Solar Energy Systems or devices shall be installed or operated in New Sharon in compliance with this ordinance and any other applicable local, state and federal regulations or codes.
- 2. Solar thermal, building-integrated photovoltaic, building mounted photovoltaic, roof mounted and small scale ground mounted Solar Energy Systems are permitted in all zoning districts referenced in the New Sharon Land Use Ordinance.
- 3. Medium and large-scale ground-mounted Solar Energy Systems are permitted per the New Sharon Land Use Ordinance. Such Solar Energy Systems shall obtain a building permit through the Code Enforcement Officer following Planning Board site plan approval. Any commercial application shall be accompanied by a fee of \$500.00.

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 in addition to the submittal requirements set out in the New Sharon Site Plan and Land Use 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.

#### 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 as determined by the Code Enforcement Officer or Planning Board.

##### 2. Setback

- A. All ground mounted solar energy systems shall be regulated by the dimensional setback regulations stipulated in the New Sharon Land Use Ordinance, Shoreland Zoning Ordinance or as prescribed in other sections of this ordinance.
- B. Ground mounted solar energy systems shall not be located in front yards in residential zoning districts unless they are sited at least fifty (50) feet from all property lines and right of ways.
- B. 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.

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

1. All wiring must comply with the National Electrical Code, most recent edition.
2. Prior to operation, electrical connections must be inspected a licensed Electrician, hired by the applicant and reviewed by the Code Enforcement Officer or their designee.
3. Any connection to the public utility grid must be inspected by the appropriate public utility unless waived by the public utility.
4. Roof mounted and building mounted solar collectors shall meet all applicable fire safety and building code standards.

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

In addition to the standards above, medium and largescale ground mounted solar energy systems shall comply with the following:

1. Utility Connections – reasonable efforts, as determined by the Planning Board, shall be made to place all connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.
2. Safety – All means of shutting down the solar energy system shall be clearly marked on the plan.
3. Visual Impact – Reasonable efforts, as determined by the Planning Board, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties and protecting scenic resources.
4. Glare – solar panel placement shall be prioritized to minimize or negate any solar glare onto nearby properties, gathering places or roadways without unduly impacting the functionality or efficiency of the solar energy system.
5. Natural Resources – Reasonable efforts, as determined by the Planning Board, shall be made to protect wetlands, watersheds, working agricultural Lands, surface waters, slopes greater than twenty (20) percent as well as undeveloped habitat blocks, high value plant and animal habitats and focus areas of ecological significance as mapped by the Maine Department of Inland Fisheries and Wildlife’s Beginning with Habitat Program and the Department of Environmental Protection.

N. SCREENING, MAINTENANCE AND REGULATORY COMPLIANCE.

1. Subject to the approval of the New Sharon Planning Board, the lots on which the ground mounted solar energy systems are located shall be protected by an 8ft perimeter fence. 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 identify 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 and integrity of security measures. Site access shall be maintained to a level acceptable to the Code Enforcement Office and or New Sharon 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 Manage 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 Sharon, the applicant must guarantee the cost for the removal of the facility.

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 in the amount of the increase. The applicant may also request adjustments in 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, 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 Sharon Planning Board during the application process. The owner or operator shall remove physically the installation no more than 180 days after the date of discontinued operations. The owner or operator 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. Decommissioning shall consist of:
  1. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
  2. Disposal of all solid and hazardous waste in accordance with Local, State and Federal Waste Disposal regulations
  3. Stabilize or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.
  4. 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.
  5. 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 Sharon 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.

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 Sharon 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.

Effective Date:

11/02/2021