TOWN OF EDDINGTON

SOLAR ENERGY SYSTEMS ORDINANCE

Prepared By

EDDINGTON PLANNING BOARD

ENACTED

October 18, 2022

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Town Of Eddington

Solar Energy Systems Ordinance

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Section 101 - Purpose and Intent:

This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001, to protect the health, safety, and welfare of the Town of Eddington and its residents. This Ordinance shall be known as the "Eddington Solar Energy System Ordinance."

Section 102 - Applicability; Site Permit and Operational License Required:

102.1 This section of the Ordinance applies to all Solar Energy Facilities proposed to be constructed or operated after the effective date of the Ordinance, which are Small-Scale P-SES and larger. See definitions.

102.2 Solar Energy Facilities legally constructed prior to the effective date of this Ordinance shall not be required to meet the Site Permit requirements of this Ordinance, except that any modification to an existing Solar Energy System that materially alters the size, type or number of Solar Collectors or other equipment shall require a Site Permit under this Ordinance.

102.3 Solar Energy Facilities constructed prior to the effective date of this Ordinance shall be required to obtain Operational Licenses pursuant to this Ordinance within thirty (30) days of its effective date.

102.4 It shall be unlawful and a violation of this Ordinance to begin construction and/or operation of a Solar Energy System without a Site Permit and Operational License or to continue operation of a system requiring an operational license under section 102.3.

102.5 The burden of compliance with all aspects of this Ordinance is on the Applicant and the Owner of a P-SES. Approval of a Site Permit and Operational License by the Planning Board does not abrogate or reduce the responsibility of the Applicant or the Owner to comply with this Ordinance. Persistent violations may lead to decommissioning and removal of the P-SES.

102.6 This Ordinance includes Sections 101 through 120. Decisions regarding compliance or approval of an Applicant's Site Permit and Operational License must be made considering the entire Ordinance.

Section 103 – Definitions & Abbreviations:

Accessory Solar Energy Systems (A-SES): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power: (a) primarily; or (b) solely for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted, solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

Applicant: The individual or business entity that seeks to secure a Permit or License under this Ordinance.

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

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

Battery Energy Storage System (BESS): A device that reserves energy for later consumption, utilizing various technologies, that is charged by a connected solar system or grid energy. They may be container or building type. The stored electricity is consumed after sundown, during energy demand peaks, or during a power outage. It is considered part of the principal use for zoning purposes including allowable locations.

1. **Private-Scale BESS** shall be designed with appropriate storage capacity to serve the principal use only and not the electric power grid except wherein power transfer to the grid is required as a function of the system.

2. **Utility-Scale BESS** shall be designed with the primary purpose to serve an off-site user such as the electric power grid or another use on a non-adjacent parcel regardless of storage capacity.

3. **Standalone BESS** shall be designed to take electricity directly from the grid when the supply is high and send it back when required, it shall be designed with the primary purpose to serve an off-site user such as the electric power grid or another use on a non-adjacent parcel regardless of storage capacity.

Essential/Significant Wildlife Habitat: Areas identified on the latest "Beginning with Habitat" map series produced by the Maine Department of Inland Fisheries and Wildlife, and any other area described in other definitions, maps or datasets as provided by MDIFW

Good Utility Practice: Any of the practices, methods and acts with respect to the safe operation of a SES engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation and maintenance of Solar Collectors during the relevant time period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could be expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition.

Height of a Structure: The vertical distance between the mean original grade at the downhill side of a structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

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

Net Energy Billing: a billing and metering practice under which a customer is billed on the basis of the difference between the kilowatt-hours delivered by a transmission and distribution utility to the customer over a billing period and the kilowatt-hours delivered by the customer to the transmission and distribution utility over the billing period, taking into account accumulated unused kilowatt-hour credits from the previous billing period.

Non-Participating Parcel: A parcel of real estate that is neither a Project Parcel nor a Participating Parcel nor a Public or Private Way.

Owner: The person or entity with legal ownership of a SES, including successors and assigns, which has the authority and responsibility to operate the SES on a day-to-day basis. An Owner must have the legal authority to represent and bind.

Participating Parcel: A parcel of real estate that is not a Project Parcel but is subject to a Mitigation Waiver. A complete copy of the Mitigation Waiver must be provided to the Planning Board and filed with the Penobscot Country Registry of Deeds.

Photovoltaic (PV) System: A solar energy system consisting of photovoltaic cells, made with semiconducting materials, or any other materials, which produces electricity [in the form of direct current (DC)] when they are exposed to sunlight. A typical PV system consists of PV panels (or modules) that combine to form an array; other system components may include mounting racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries.

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

Principal Solar Energy Systems (P-SES): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one, 1 or more free-standing ground, or roof mounted, solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines and other appurtenant structures.

Project Parcel: Any parcel(s) of real estate, and any easement or right of way appurtenant to the project which is not situated on the land where the actual solar array is sited, on which all or any part of a SES will be constructed.

Property Line: The recognized and mapped property boundary line.

Road: A highway; an open way of public or private passage; a strip of land appropriated and used for purposes of travel and between different places. A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system.

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

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

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

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

1. **Roof Mounted A-SES** is one affixed to any legally permitted structure.

2. **Ground Mounted A-SES** is one whose physical size based on total airspace projected over the ground is less than 1,000 square feet.

3. **Small-Scale P-SES** is one whose physical size based on total airspace projected over a roof or the ground is less than 15,000 square feet (approximately one-third of an acre).

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

5. **Large-Scale P-SES** is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres) and less than 100 acres.

For Additional Definitions Not Specific to This Ordinance. Refer to Chapter Eleven in the Town of Eddington Zoning Ordinance.

Common Abbreviations

AC - Alternating Current
A-SES - Accessory Solar Energy Systems
BESS - Battery Energy Storage System
CEO – Code Enforcement Officer
DC - Direct Current
kW - Kilowatts
kWh - Kilowatt-hours
MW - Megawatts
MWh - Megawatt-hours
P-SES - Principal Solar Energy Systems
PV - Photovoltaic
SES - Solar Energy System
W - Watts

Section 104 – District Use Chart:

	Commercial	Mixed	Rural Residential	Rural Agricultural	Conservation	Shoreland	Resource Protection
Accessory Use (A-SES)							
Rooftop	Y	Y	Y	Y	Y	Y	Y
Ground Mounted	Y	Y	Y	Y	N	Y/Note 1	N
Principal Use (P-SES)							
Small-Scale	Y/SPR(3)	Y/SPR(3)	Y/SPR(3)	Y/SPR(3)	N	N	N
Medium-Scale	Y/SPR(1)	Y/SPR(1)	Y/SPR(2)	Y/SPR(2)	N	N	N
Large-Scale Note 3	Y/SPR(1)	Y/SPR(1)	N	Y/SPR(1)	N	N	N
BESS							
Private-Scale	Y	Y	Y	Y	Y/Note 2	Y/Note 2	Y/Note 2
Utility-Scale	Y/SPR(1)	Y/SPR(1)	Y/SPR(1)	Y/SPR(1)	N	N	N
Standalone	Y/SPR(1)	Y/SPR(1)	N	Y/SPR(1)	N	N	N
Y=Allowed; N=Prohibited; SPR=Site Permit Review Required; (#)=See Note 3							

104.1 Note 1 – Allowed with the following exception: Ground Mounted A-SES in a Shoreland Zone shall be setback a minimum of one hundred (100) feet, horizontal distance, from the normal high-water mark.

104.2 Note 2 - Allowed with the following exception: Private-Scale BESS shall be limited to ¼ average consumption, be mounted indoors, and have secondary containment.

104.3 Note 3 – Net Energy Billing Projects Prohibited.

104.4 Note 4 – Bracketed number (#) represents a limit on number of P-SES / BESS projects per approved district.

Section 105 - Standards and Requirements for Accessory Solar Energy Systems:

105.1 Roof and Building-mounted A-SES and equipment are permitted by right and shall be permitted unless they are determined by the Code Enforcement Officer, in agreement with the Fire Chief, to present one or more unreasonable safety risks, including, but not limited to, the following:

105.1.1 Weight load.

105.1.2 Wind resistance.

105.1.3 Ingress or egress in the event of fire or emergency.

105.1.4 Proximity of a ground-mounted system relative to buildings.

105.2 Ground Mounted A-SES is one whose physical size based on total airspace projected over the ground is less than 1,000 square feet if not within a resource protection zone.

105.3 The location of all Ground Mounted A-SES shall meet the setback requirements of the district in which it is located, as found in Section 607 of the Town of Eddington Zoning Ordinance.

105.4 To reduce light pollution Non-Reflective or Anti-Glare PV Panels shall be used whenever possible. Reused/refurbished PV Panels with little or no Non-Reflective or Anti-Glare properties shall be positioned as to reduce visibility from any non-participating parcel.

105.5 Maximum effort must be taken to recycle nonfunctional PV Panels and BESS in order to ensure they do not become a burden to the environment. All PV cells contain certain amounts of toxic substances; therefore, deposit/disposal of PV Panel and BESS debris within the Town of Eddington is prohibited without prior approval by the Town of Eddington and the Maine Department of Environmental Protection.

105.6 All A-SES installations shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA1) adopted by this Town.

105.7 All wiring shall be installed in compliance with the latest edition of the photovoltaic systems standard of the National Electric Code and National Fire Protection Association as adopted by the State of Maine.

105.8 Requirements.

105.8.1 All A-SES require the submittal of a permit application to the Code Enforcement Officer in accordance with the Town of Eddington Zoning Ordinance.

105.8.2 All A-SES installations shall not exceed 125% of the average electric consumption of the metered activity for which the power is intended.

105.8.3 A proof of power consumption assessment prepared by a Solar installation company or a 1 year or greater power consumption assessment from a servicing utility company must accompany the Permit Application.

105.8.4 Prior to operation, electrical connections must be inspected and approved by a State Certified Electrical Inspector.

Section 106 - Standards for Principal Solar Energy Systems:

106.1 Proof of Interconnection and Power Purchase.

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

106.1.2 A description of the energy to be produced and to whom it will be sold. Include a copy of the purchase agreement as part of this description.

106.2 General Lot Requirements. All 50 States have enacted farmland and forestland protection programs to help slow the conversion of farmland and woodlands to developed uses. As citizens and policymakers, it is our duty to balance progress and protection of our natural resources as well as preserve the general rural makeup of the Eddington community, therefore:

106.2.1 Woodlots that have not been cut in the last twenty 20 years are prohibited.

106.2.2 Farmland that has been active and air able within the last ten 10 years is prohibited.

106.3 Vegetation. Land clearing, soil erosion, and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances. Ground-mounted facilities shall minimize mowing to the extent practicable. Removal of mature trees shall be avoided to the extent possible. Native, pollinator-friendly seed mixtures shall be used. Herbicide and pesticide use shall be prohibited. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system. Contract grazing is allowed if the applicant wishes to use it for vegetation control.

106.4 Utility Connections. Overhead or pole-mounted electrical wires shall be avoided to the extent possible.

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

106.6 Setbacks. The fence setback from abutting property lines shall be a minimum of one hundred (100) feet for all P-SES. A-SES shall conform to the setbacks of the zone where they are located, in accordance with Section 607 of the Town of Eddington Zoning Ordinance.

106.7 Fencing.

106.7.1 Fencing shall be installed as required by the latest edition of the National Electrical Code for ground mounted solar energy systems in accordance with the size of the proposed system. The fencing shall be agricultural fixed knot with 12in x 8in openings at the bottom. The panels have the option of 12in x 8in in full panel, or panels with progressively smaller openings ending at the top of the fencing. The fencing shall have a ground clearance of 6in to provide for passage of small terrestrial animals.

106.7.2 In locations where additional screening might be needed to shield a protected location a vegetative buffer with growth potential to meet or exceed the overall fence height will be planted to provide screening. As a temporary screening measure, privacy net screen can be added to the agricultural fencing.

106.7.3 To mitigate solar panel glare, solar panels with anti-reflective coatings shall be used. If the results of the Glint and Glare assessment shows an unreasonable off-site impact to abutting property owners' established dwellings or established roadways, a mature vegetative buffer will be planted to provide screening. As a temporary screening measure, not to exceed thirty, 30 days, privacy net screen can be added to the agricultural fencing.

106.8 Signage. Signage shall be placed on all access points from public roads to identify the owner of the P-SES and provide a twenty-four-hour emergency contact phone number and equipment specification information. As required by the National Electric Code, disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

106.9 Roads. A P-SES owner shall maintain a road for access to, and within the facility to accommodate emergency vehicles. Whenever a "Shared Use Road" is used to access the P-SES a written agreement between landowners and the facility owner for road maintenance must be agreed upon and presented to the Planning Board in conjunction with the site permit application. Roads shall be kept in accordance with Chapter 9 of the Town of Eddington Zoning Ordinance where applicable.

106.10 Operations and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground mounted solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

106.11 Battery Energy Storage System (BESS). There are many types of BESS technologies which may be Private or Utility-Scale installations. They must meet the latest edition of the National Fire Protection Association NFPA 111, NFPA 855, NFPA 1 Fire Code Chapters 11 and 52, and NFPA 70 Electrical Code. Site plans shall clearly indicate locations of BESS, access

ways and signage identifying the owner and a 24-hour emergency contact phone number. Applications shall include all means of disabling the system in the event of an emergency. All BESS shall be included as a separate section in the Fire Prevention and Emergency Response Plan.

106.12 Exemption. Solar Energy Systems mounted on permitted Cell Phone Towers, Wind Turbines, and Municipal Structures are exempt from the requirements of sections 105 & 106.

Section 107 - Site Permit Application Requirements and Standards

107.1 Approval. Approval of an SES application via this ordinance is conditional upon compliance with all other state and local laws and ordinances, including but not limited to, the Eddington Land Use Ordinance, Maine Natural Resources Protection Act, Maine Site Location of Development Law, and Maine Storm Water Management Law.

107.2 Submission. Applications for a SES Site Permit shall be submitted 14 days before the next scheduled Planning Board meeting for Planning Board review. The application for a SES Site Permit shall include all the information, documents, plans, deposits, and other items required to be submitted with an application under this section, a preliminary cost agreement and the fees specified in Section 107.14, along with any costs outlined in Section 108. At least nine (9) copies of all written materials, including maps or drawings, shall be provided. Written materials shall be contained in a bound report. The following materials shall be submitted for evaluation of all non-exempt SES applications as part of the Site Plan review process.

107.2.1 Name, address, phone number, and signature of the project applicant/owner, as well as all the property owners, demonstrating their consent to the application and use of the property for the solar energy system.

107.2.2 If the applicant/owner will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the owner, landowner, and any other responsible party with regard to the SES and the life of the agreement.

107.2.2.1 A copy of this agreement shall be filed in the Penobscot Registry of Deeds. Additionally, if the owner and should change during the life of the SES a copy of the transfer agreement, including acknowledgment that the new owner agrees to abide by all restrictions, requirements, and financial payments contained in the original application and original operational permit shall be filed at the Penobscot Registry of Deeds and with the Town of Eddington Code Enforcement Officer (CEO).

107.2.3 The Planning Board shall consider a submitted record of financial capacity, technical ability, and prior performance in its review of any application. If the applicant or owner is found to be deficient in any of these areas, it may deny the application.

107.3 Narrative. A narrative describing the proposed P-SES, including an overview of the project, the project location and the projected generating capacity and expected production output of the P-SES.

107.3.1 A Site Plan, prepared by a Maine licensed Professional Engineer, showing the following: Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic) Tax map and lot number of all project parcels.

107.3.2 Property lines and physical features, including roads, rights of way, location of proposed access roads, setbacks of project area from abutting property lines, existing structures indicating their future use in project, shoreland zones, exposed ground water on site, sand gravel aquifers, wetland areas and wetland of special significance.

107.3.3 Contours of the parcel at 10' intervals for all areas proposed for development.

107.3.4 Blueprints or drawings of the solar energy system showing the proposed layout of the system, the distance between the proposed solar collector and all property lines, existing on-site buildings and structures and the tallest finished height of the solar collector.

107.3.5 Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation and/or structures, erosion and sedimentation control plan prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction Best Management practices, current edition. This plan should include estimated amount of topsoil to be moved and its disposition, operational practices to be used to prevent surface or groundwater pollution, a revegetation plan for any cleared areas, proposed schedule for building of site starting with land clearing and grading through start of P-SES operations.

107.3.6 Indication of floodplains, deer wintering areas, Essential Wildlife Habitats, Significant Wildlife Habitats, Scenic Resources, habitat of rare and endangered plants and animals, unique natural areas, historical and/or archaeological resources. Letters from the appropriate authoritative agencies shall be required as proof of compliance with performance standards for items in this paragraph.

107.3.7 A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems and inverters that are to be installed, including a one or three-line electrical diagram detailing the solar photovoltaic installation, associated components and electrical interconnection methods. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.

107.3.8 A Waste Stream Management Plan (including recycling percentages) for construction and demolition waste & debris at the SES site. This waste includes concrete, wood, scrap metal & wire, and clearing and grading waste.

107.3.9 Written confirmation that all applicable State agencies with jurisdiction over the project have been notified of the application and the location of all system components covered by this application.

107.3.10 Operations statement, including the approximate date of commencement of power generation to grid.

107.3.11 Frequency and rated db level of sound production from transformer banks, inverters, and other noise producing elements of the project during standard operation.

107.3.12 Property and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing, trimming vegetation and road maintenance.

107.3.13 List of all abutting property owners with addresses.

107.4 Plan and Risk Assessment for Road and Property Use.

107.4.1 An Application for a SES Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.

107.4.1.1 A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the SES, including a description of how and when such ways and property will be used or affected.

107.4.1.2 Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the SES.

107.4.2 If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.

107.4.3 The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate to secure any obligations under the agreement, including but not limited to any obligation relating to alterations or modifications to public ways made in connection with the Applicant's activities.

107.5 Security Plan and Requirements. The Application shall include a security plan that contains the information and meets the requirements in this section.

107.5.1 All access doors to buildings and electrical equipment shall be locked.

107.5.2 All motor vehicle access points to the SES from public roads shall be gated.

107.6 Fire Prevention and Emergency Response Plan Requirements. The Application shall include a fire prevention and emergency response plan that contains the information and meets the requirements in this section.

107.6.1 The plan shall describe the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police, or other emergency responders.

107.6.2 The plan shall provide for any special training or emergency response equipment that the designated agencies need to use in responding to a potential fire or other emergency. The Applicant shall pay for the cost of any training or equipment required by local fire and emergency responders.

107.6.3 The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety and shall describe the procedures that the Town and the Owner and Licensee will follow in the event an emergency shutdown is required.

107.6.4 A copy of the plan shall be provided to the Code Enforcement Officer and Fire Chief. Upon request, the owner shall cooperate with the Code Enforcement and/or Fire Department in addressing any concerns in the fire prevention and emergency response plan.

107.6.5 The owner shall provide to the Code Enforcement Officer and Fire Chief the name and contact information of a responsible person for public inquiries throughout the life of the installation.

107.7 Emergency Shutdown Plan and Requirements. An Application for a SES Site Permit shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety and shall describe the procedures that the Town and the Owner and Licensee will follow in the event an emergency shutdown is required. All means of shutting down the system shall be clearly marked.

107.8 Glint and Glare. The solar energy system owner shall conduct and submit a Glint and Glare assessment.

107.9 Certification of the EPA Toxicity Characterization Leaching Procedure (TCLP) shall be provided, along with proof that all electrical equipment used at the facility must be UL-listed. No substitutions of other certifications for the UL listing or the TCLP shall be permitted.

107.10 Stormwater Control. Submission of a narrative demonstrating that stormwater controls shall adhere to the performance standards in Chapter 802 of Eddington Zoning Ordinance and State of Maine Stormwater Control rules. In addition, P-SES applicants shall follow these additional guides.

107.10.1 If utilizing cleared land for proposed "meadow" based stormwater treatment, semi-annual (Spring & Fall) inspection of the meadow areas shall be performed by the CEO until a meadow grass sod is established. Grading of washouts and pollinator friendly reseeding of eroded "meadow" areas shall be performed according to Maine Department of Environmental Protection best Management Practices.

107.10.2 Meadow stormwater treatment areas will be managed by mowing or Contract Grazing if applicant wishes to employ it for vegetation control.

107.11 Decommissioning Plan Showing the Following.

107.11.1 How the plan will provide for the removal from the project site and lawful disposal or disposition of all elements of the SES to a clear depth of at least six (6) inches below any element of the project, including panels, mounting hardware, electrical lines above and underground, security barriers, electrical equipment, cement bases and pads, any other equipment. and removal of all access roads. Disposal shall be in accordance with all local, state, and federal regulations.

107.11.2 A clear plan for stabilization and revegetation of the site to ensure a lack of erosion. The plan should include restoration of native, pollinator friendly seed mixtures to provide ground coverage as needed. This plan shall be reviewed and stamped by a professional engineer currently licensed in the State of Maine, and a currently licensed Maine Forester showing approval of the stabilization and re-vegetation plan. The entire area shall be restored to a condition similar to that which existed prior to the construction of the SES.

107.11.3 The decommissioning plan must be signed by the party responsible for decommissioning and the landowner (if different) and said plan must be filed in the Penobscot County Registry of Deeds prior to the approval of the solar array plan.

107.11.4 The decommissioning plan must include an itemized estimate of all cost associated with the completion of section 107.11 of this Ordinance.

107.12 Certification of Decommission.

107.12.1 Upon decommission, the owner of the SES shall make a filing with the Town of Eddington CEO, providing full disclosure of work completed to fulfill the requirements of section 107.11 reviewed and stamped by a professional engineer currently licensed in the State of Maine, and a currently licensed Maine Forester.

107.12.2 Upon submission of the Certification of Decommission the owner shall schedule an inspection of the decommissioned site with the Owner, CEO, and a minimum of 1 members of the Town of Eddington Planning Board present.

107.13 Performance Guarantee - Decommissioning Plan Financial Requirements. As part of the application process for a Commercial Solar Energy System project the applicant shall establish and fund a performance bond in an amount great enough to cover the projected costs of removal presented as part of the decommissioning plan in the project application. This requirement is in addition to the "Performance Guarantee," Chapter 4 section 405 of Town of Eddington Zoning Ordinance.

107.13.1 Forms Guarantee: performance bond, surety bond, interest bearing escrow account, or other form of financial assurance as may be acceptable to the Board of Selectmen.

107.13.2 Payee: The Town of Eddington shall be the named holder of the account with the Applicant. Town of Eddington will be the only entity that can release funds from this

account and will be used by the Town to perform decommissioning in the event of abandonment of the project by the owner.

107.13.3 Financial assurance provisions must be noted on the final site plan and must be transferred with the development if it is sold. In addition to update of information at the Registry of Deeds, written notice must be sent to Town of Eddington

107.13.4 Monetary amount of Guarantee: The total amount of surety as outlined in 107.11.4 of this Ordinance is due prior to the issuance of a building permit.

107.13.5 Return of Decommissioning Fund: The principal and any earned interest shall be returned to the owner of record when the decommissioning is completed unless the municipality has found it necessary to draw on the account. In the latter case, the residual from the account, if any, and its earned interest will be returned to the owner proportionately.

107.13.6 Every 5 years from the date of permit issuance during the lifespan of the project the owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in the State of Maine. If the cost has increased more than 5% then the owner of the facility shall provide additional security in the amount of the increase.

107.14 Planning Board Review.

107.14.1 The Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, determine whether the Application is complete and contains all of the materials, information, agreements, deposits, and payments required to be submitted with an Application under this section and Section 108, within 60 days of it being accepted at a Planning Board Meeting. The Planning Board may extend the review process an additional 30 days. If an Application is not complete, then the Applicant shall be so advised, and no further action shall be taken by the Planning Board until a complete Application is received.

107.14.2 After the Planning Board determines that an Application is complete, the Planning Board shall determine whether the Application meets all requirements of this Ordinance. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants, as it deems appropriate. The Planning Board shall process the Application within 90 days considering the complexity of the Application, other business facing the Town, staff and other resources, questions that arise during the review process, and other matters affecting the time needed to complete the review process. The Planning Board may extend the review process an additional 90 days. If no decision has been reached by the Planning Board within 180 days, the application as submitted is deemed approved.

107.14.3 If an Application is complete and meets all requirements of this Ordinance, and the Applicant has paid all fees and costs pursuant to Sections 107 and 108, and any Public Hearings as described in the Zoning Ordinance Section 401.2 have been completed, (At least one Public Hearing will be held within 30 days of the application

being determined complete.) then the Planning Board shall approve an SES Site Permit. If an application does not meet all requirements of this Ordinance or the Applicant has not paid all fees and costs, then the Planning Board may deny the Application or approve the Application with conditions that will assure compliance with this Ordinance. If an Application is approved with conditions, then a SES Site Permit shall be issued when all conditions of approval have been satisfied.

Section 108 – Application, Permitting, Operational License Fees:

108.1 See Town of Eddington Fee Schedule.

Section 109 - Expiration of Site Permit Approval and SES Operational License:

109.1 If on-site construction of a SES is not ~~significantly~~ commenced within one year of the date of issue of a Site Permit, the Site Permit shall automatically lapse and become null and void, and the Applicant must reapply. If an approved SES is not completed within 30 months after a Site Permit is issued, then the Site Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause shown, grant an extension of up to six months for the start and/or completion of construction, provided such request is submitted prior to the lapse or expiration of the Site Permit. If an appeal should be filed, the time frame described above shall be suspended until the completion of the appeal process.

109.2 The 30 month completion of construction deadline shall be extended on a day-for-day basis for each day of Excusable Delay. "Excusable Delay" means any delay that is caused by one or more of the following:

109.2.1 An event of Force Majeure.

109.2.2 A delay in receiving critical energy equipment that is beyond control of the Project.

109.2.3 The applicable interconnection facilities having not been energized and back feed power has not been made available, for reasons that are beyond the control of the Project.

109.3 A SES Operational License issued under this Ordinance shall expire five years after the date it is issued, unless earlier terminated. Early termination can include but is not limited to nonpayment of the annual fee for Operational License.

109.4 An Operational License expires immediately upon abandonment of any portion of the SES. Any portion of a SES which has not operated for twelve consecutive months, that portion shall be deemed abandoned and the operational license for that portion of the SES shall expire.

109.5 A SES Operational License shall automatically terminate upon transfer of ownership or operation of the SES. The proposed new owner shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the SES.

Section 110 - Violations, Complaints and Penalties:

110.1 In this section, "violation" means a violation of this Ordinance, or a violation of a SES Site Permit issued under this Ordinance, or a violation of a SES Operational License.

110.2 Violations of This Ordinance. It shall be unlawful to construct or operate any SES or part thereof in violation of any provision of this Ordinance, a SES Site Permit, or a SES Operational License; any violation thereof is punishable, upon conviction, in accordance with 30-A M.R.S.A. § 4452(3), and shall include attorney's fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(D) and (H). All fines assessed under this Ordinance shall inure to the benefit of the Town of Eddington. Each day a violation exists or continues shall constitute a separate offense.

110.3 Any resident of the Town, real property taxpayer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a SES Permittee, Owner or Licensee has committed or is committing a violation. Such complaints shall be forwarded to the CEO.

110.4 The CEO shall preliminarily review the complaint. The CEO may request information from the SES Permittee, Owner and/or Licensee, the complainant, and any other person to assist with this review.

> **110.4.1** Following preliminary review the CEO may take one or more of the following actions:
>
> > **110.4.1.1** Dismiss the complaint.
> >
> > **110.4.1.2** Through the Planning Board, conduct a public meeting to determine whether the alleged violation(s) have occurred, and what remedial action should be taken.
> >
> > > **110.4.1.2.1** Prior to such meeting, notice of the meeting shall be given to the SES Permittee, Owner, Licensee, as applicable, and the complainant. The SES Permittee, Owner, Licensee, as applicable, and the complainant, and any other person, may appear at the meeting and may offer testimony and other relevant evidence, and may be represented by any attorney.
> >
> > **110.4.1.3** Determine that the alleged violation(s) has/have occurred and what remedial action should be taken.
> >
> > **110.4.1.4** Impose conditions on the SES Site Permit, Owner and/or Licensee to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof.
> >
> > **110.4.1.5** Recommend to the Select Board that the matter be referred to the Town's attorney for prosecution seeking that the SES Site Permit be suspended until such

time as a plan, satisfactory to the CEO, is implemented that will discontinue the violation(s).

110.4.1.6 Recommend to the Select Board that the matter be referred to the Town's attorney for prosecution seeking that the SES Site Permit and/or Operational License be revoked and that decommissioning of the SES be directed if the CEO concludes that no reasonable modification can be made to the SES to discontinue or prevent violations.

110.4.1.6.1 Take no action, if the CEO concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.

110.4.1.6.2 Following any of the above actions, the CEO's written decision shall be furnished to the SES Permittee, Owner and/or Licensee, as applicable, and to the complainant.

110.4.2 An appeal from the decision of the CEO or Select Board may be taken to the Appeals Board by the SES Permittee, Owner and/or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof and must be filed with the Town Clerk within 30 days after the final action of the CEO or Select Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as due notice to the SES Permittee, Owner and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the CEO or Select Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the CEO's or Select Board's determination.

110.4.3 An appeal from a final decision of the Board of Appeals shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

Section 111 - Maintenance, Amendments, and Miscellaneous Requirements:

111.1 A SES shall be constructed, operated, and maintained, and repaired in accordance with the approved Site Permit, Operational License, and this Ordinance. Where a standard or requirement is not provided by either this Ordinance, the SES Site Permit or the SES Operational License, the SES Permittee and Licensee shall comply with Good Utility Practices.

111.2 All components of the Solar Energy System shall conform to the latest edition of, relevant and applicable local, state, and national building codes.

111.3 A SES Permittee may apply to the Planning Board for changes to a SES Site Permit or Operational License. The Application shall describe the requested change or changes. The Planning Board shall review the Application and determine what provisions of this Ordinance and Appendix will apply to the Application. The Application will then be processed in accordance with

all provisions of this Ordinance deemed to be applicable by the Planning Board. The provisions of Section 107, together with all other instances where this Ordinance outlines financial obligations of the Applicant, Permittee, Owner and/or Licensee shall apply to any Application for changes to a SES Site Permit or Operational License. An application for changes will be required for any significant modification to the approved SES Permit, including, but not limited to: any change in the number of solar panels; any change in array height, location, design, or specification; or any substantive change to any required plan.

111.4 The SES Permittee, Owner and/or Licensee, as applicable, shall notify the Town of any extraordinary event as soon as possible, and in no case more than 12 hours after the event. "Extraordinary events" shall include but not be limited to fires, leakage of hazardous materials, unauthorized entry, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the health and safety of the Town or its residents.

111.5 Approval of a SES Permit under this Ordinance does not exempt an Applicant from obtaining other applicable permits from the Town of Eddington, such as building, electrical, plumbing and Shoreland zoning permits, as applicable, or any applicable state or federal permit.

Section 112 - Severability; Conflicts with Other Ordinances, Laws, and Regulations; Appeal:

112.1 If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or part thereof. The Town hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or part thereof even if any one or more sections, subsections, sentences, clauses, phrases or parts thereof may be declared invalid or unconstitutional.

112.2 Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Town Ordinance, or Federal or State of Maine rule, regulation or statute, the more restrictive provision shall apply.

112.3 Except as provided in Section 109.2.4.5 an aggrieved party may appeal a decision of the Planning Board to Superior Court in accordance with M.R.Civ.P. 80B.

112.4 For Waiver and Variance procedures refer to Town of Eddington Zoning Ordinance.

Section 113 - Ethical Standards:

113.1 Transparency, Public Participation and Highest Ethical Standards. All public deliberations and decisions regarding Solar energy systems shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

113.2 Public Access. All deliberations concerning Solar Energy System Projects, whether in writing or conducted verbally, by the Planning Board, Board of Selectman, Appeals Board, and any other subcommittees or working groups of the afore mentioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding Solar Energy Systems between members of the Planning Board, Board of Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings for which notice has been duly given. Exceptions will be made only for: 1) executive sessions duly called in accordance with the Maine Freedom of Access Law; and 2) communicating the minimal information necessary to set up and facilitate public meetings. Minutes of deliberations and decisions concerning Solar Energy Systems will be maintained and filed in the Eddington Town Office. Copies of all correspondence and e-mails will be made available to the public with the exception of those publicly identified and disclosed as being subject to "attorney-client privilege" by the Town attorney. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Board of Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

113.3 Conflicts of Interest. The process to develop and permit Solar Energy System Projects shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be directly or indirectly involved in the planning process or decision-making process for Solar Energy System Projects. Conflicts of interest include, but are not limited to:

113.3.1 Having right, title or interest in a Project Parcel.

113.3.2 Having a financial arrangement with an individual or company which derives income from the development of solar energy.

113.3.3 Serving as a paid representative of an individual or company which derives income from the development of solar energy, or a written or verbal promise for future employment or contracts from a solar development company.

113.3.4 Being directly or indirectly affiliated as an Applicant with a pending Application for a Solar Energy System Project.

113.3.5 Knowing that there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than $1,000 on behalf a solar development company.

113.3.6 Members of the Reviewing Board who meet the rules of the Town of Eddington Planning Board Bylaws concerning Section 4.4 "Conflict of Interest".

113.4 Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision-making regarding Solar Energy System Projects, with the exception of voting and debating as a private citizen at any public meeting and public hearings.

Section 114 - Administration and Enforcement:

114.1 Code Enforcement Officer.

114.1.1 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/she shall immediately notify in writing the persons responsible for such violation, indicating the nature of the violation and the action necessary to correct it. Decisions on recommendations to prosecute, time granted for willful compliance and the terms of any Consent agreements are not appealable. The Code Enforcement Officer is authorized to order immediate cessation of any development activity, pending action of the Board of Selectmen, as provided in sub section 202 below.

114.1.2 The Code Enforcement Officer shall maintain a file of all permit applications and maintain a record of all essential transactions of the office, including but not limited to applications submitted, permits granted or denied, variances granted or denied, Planning Board reviews granted or denied, revocation orders violations and fees collected.

114.1.3 The Code Enforcement Officer may enter any property at reasonable hours, and enter any structure with the consent of the property owner, occupant, or agent to inspect the property or Structure for compliance with this Ordinance. If consent is denied, the Code Enforcement Officer may enter the property after obtaining the necessary legal authorization.

114.1.4 The Code Enforcement Officer shall also administer applications and grant permits within the jurisdiction of Section 606, the District Use Chart, on page 18.

114.2 Enforcement.

114.2.1 When any violation of any provision of this Ordinance shall be found to exist, the Board of Selectmen, upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all corrective actions and proceedings, including, to require the removal of Illegal buildings, structures, additions, or work being done; or any other action to insure Compliance with, or to prevent violation of, this Ordinance in the name of the Town.

114.2.2 Any person, firm or corporation being the owner, contractor or having control or use of any structure or premises who violates any provisions of this Ordinance shall upon adjudication be fined in accordance with the provisions of MRSA Title 30 A Section 4452. Each day such a violation is permitted to exist after notification by the Code Enforcement Officer shall constitute a separate offense. All fines' costs and attorney fees, including the award of any court cost shall be for use and benefit of the Town of Eddington.

Section 115-118 – Reserved for Future Use:

Section 119 - Effective Date:

119.1 This Ordinance shall take effect immediately upon passage. (October 18, 2022)

Section 120 - References:

MRSA Title 30-A, §3013: Solar Energy Devices; Ordinances
MRSA Title 30-A §4452: Enforcement of Land Use Laws and Ordinances
MRSA Title 33, Chapter 28-A: Solar Rights §1421 - §1424
National Electrical Code
NFPA 1
NFPA 70
NFPA 111
NFPA 855
Town of Eddington Shoreland Zoning Ordinance Mar 24, 2009
Town of Eddington Zoning Ordinance Jun 15, 2021