

CHAPTER 8. SOLAR ENERGY SYSTEMS ORDINANCE

SECTION 1. AUTHORITY

This Ordinance is enacted pursuant to the authority given the Town in MRSA Title 30-A, SECTION 3001.

SECTION 2. PURPOSE

The purpose of this Ordinance is to regulate the size, location, and development standards for certain solar energy systems (“SES”) in China.

SECTION 3. DEFINITIONS

GROUND-MOUNTED SOLAR ENERGY SYSTEM – An SES that is structurally mounted to the ground.

PANEL AREA – The total area of solar panels based on total airspace projected over the ground.

SOLAR ENERGY SYSTEM - A facility 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.

SECTION 4. APPLICABILITY

- A. This Ordinance shall apply to proposals to construct ground-mounted SES that exceed 1 acre in panel area. The following SES are not subject to this Ordinance except as noted.
1. SES serving one single-family or one two-family residence.
 2. Roof-mounted SES.
 3. Ground-mounted SES that do not exceed 5,000 square feet in panel area.
 4. Ground-mounted SES between 5,000 square feet and 1 acre in panel area except that such systems shall comply with the dimensional requirements of SECTION 6 and the regulatory requirements of SECTION 9.
 5. Ground-mounted SES that exceed 1 acre in panel area for which at least 50% of the energy generated is consumed by a principal use on the same parcel of land, except that such systems shall comply with the dimensional requirements of SECTION 6, the stormwater requirements of SECTION 8.H, the decommissioning requirements of

SECTION 8.L if the SES exceeds three acres in panel area, and the screening, security, maintenance and regulatory requirements of SECTION 9.

- B. Ground-mounted SES that exceed 5,000 square feet in panel area or result in the stripping, grading, removal or filling of earth materials of more than 20,000 square feet in area in the aggregate are subject to Chapter 2, SECTION 6.B.VII, Conditional Use Permits.

SECTION 5. APPLICATION AND PERMIT FEE

The standard fees for all permits established by this Ordinance shall be set by the Select Board on an annual basis.

SECTION 6. DIMENSIONAL REQUIREMENTS

- A. Ground-mounted SES shall not exceed 20 acres in panel area.
- B. Ground-mounted SES shall not exceed 25 feet in height at maximum tilt.
- C. Minimum front setback shall be 100 feet, minimum side setback shall be 100 feet and minimum back setback shall be 100 feet.

SECTION 7. PERMITTED LOCATIONS

Unless exempted by SECTION 4, SES that exceed 1 acre in panel area are limited to the Rural District.

SECTION 8. SPECIFIC APPLICATION REQUIREMENTS

- A. A description of the owner of the SES, the operator, if different, and qualifications and track record to construct and operate the SES.
- B. If the operator will be leasing the land, a copy of the agreement (minus the financial compensation) that clearly outlines the relationship inclusive of the rights and responsibilities of the operator, landowner and any other responsible party with regard to the SES and life of the agreement.
- C. An Interconnection Agreement between the operator/owner of the SES and the local transmission/utility provider.
- D. A construction plan and timeline, identifying known contractors, site control and anticipated on-line date.
- E. A soils report prepared by a Maine licensed soil engineer that details the types of soils to support the construction of the SES.
- F. A site plan that identifies the location, dimensions, acreage of the parcel to be built on,

property boundary lines, any historic sites, any significant wildlife habitat areas, and any natural resources. The site plan should at a minimum show pre-construction topography, post construction topography, the location of the structures and roads, any onsite and adjacent waterbodies, and all erosion and sedimentation control measures to be used on the site.

- G. A description of the panels to be installed, including make and model, and associated major system components.
- H. For projects under 1 acre of disturbed soil, a stormwater management plan that adheres to China's Land Use Development Code, Chapter 2. For projects with over 1 acre of disturbed soil, a stormwater management plan that meets the Maine Department of Environmental Protection Stormwater Management Requirements.
- I. A phosphorous control plan that adheres to China's Land Use Development Code, Chapter 4.
- J. Approval from the local China Fire Chief that the site and road access is adequate for emergency vehicles.
- K. Approval from the Department of Transportation if the access road connects to a state-owned road.
- L. A decommissioning plan that meets the requirements of Title 35-A, Chapter 34-D, Solar Energy Decommissioning for projects over 3 acres. For projects under 3 acres, a decommissioning plan that meets the requirements of SECTION 12.
- M. Erosion and Sediment Control Plan that complies with the Maine Department of Environmental Protection Best Management Practices Manual.

SECTION 9. Screening, Security, Maintenance and Regulatory Compliance

- A. Ground-mounted SES that exceed 20,000 square feet in panel area shall be buffered from public roads and residences by plantings, berms, and natural topographical features. Vegetation control shall be by mechanical means only. Chemical (herbicides and insecticides) vegetation control is prohibited.
 - i. Where a natural buffer does not exist, one must be planted consisting of mixed conifers native to Maine (e.g. white pines, balsam fir, spruce) and which complied with the buffering requirements of SECTION 9 at the time of planting.
 - ii. The visual buffer shall be maintained over the life of the SES with all plantings that die or destroyed replaced as soon as the growing conditions allow.
- B. Lots on which ground mounted SES are located shall be protected by a perimeter fence unless the Planning Board determines pursuant to Conditional Use Permit review that such fencing is not necessary to protect the facility or the public. One or more signs shall be

affixed to the fencing identifying the owner of the facility and emergency contact information.

- i. A safety fence, at a minimum of 6 feet tall positioned at least 6 inches off the ground, shall be installed around the perimeter of the entire project. Fencing shall be located between the SES facility and the buffer.
 - ii. Any gate required for maintenance and emergency access shall be equipped with a Knox Box or similar device and a key provided to the local China Fire Chief and emergency response, if different.
- C. For purposes of emergency services, the owner or operator of a ground-mounted SES shall provide a copy of the project summary, electrical schematic, and site plan to the local China Fire Chief. Upon request, the owner or operator shall cooperate with the local 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 and the local Fire Chief for public inquiries throughout the life of the installation.
- D. The owner or operator of a ground-mounted SES shall maintain the facility in good condition. Maintenance shall include but not be limited to painting, structural repairs, vegetation control and integrity of security measures. Site access shall be maintained to a level acceptable to the local China Fire Chief. The owner or operator shall be responsible for the cost of maintaining the access road(s) unless the road(s) is accepted as a public way.
 - i. The owner or operator shall be responsible for maintaining the SES unless an agreement has been executed with another company or individual. A copy of the agreement shall be submitted to the CEO.
- E. The owner or operator of a ground-mounted SES shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.

SECTION 10. MODIFICATIONS

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, except that any modifications or physical expansions shall comply with the provisions of this Ordinance to the greatest practicable extent as determined by the Planning Board. Any physical modifications to an SES approved by the Planning Board pursuant to this Ordinance, which expands or relocates the footprint of the SES, shall require approval under this Ordinance. Routine maintenance or replacement do not require a permit.

SECTION 11. PERFORMANCE GUARANTEE

After a ground-mounted SES that is subject to this Ordinance is approved but before a building permit is issued and prior to construction, the applicant shall submit to the Town of China a performance guarantee (surety bond, letter of credit or other form of financial assistance) in the amount of 150% of the applicant's estimated demolition cost of the system, subject to a review

of such cost by the Code Enforcement Officer. The applicant may apply to the Code Enforcement Officer for release of the guarantee at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Code Enforcement Officer.

- A. The performance guarantee shall include a provision granting the Town of China the ability to access the funds and property and perform decommissioning if the facility is abandoned or the owner/operator fails to meet their obligation.
- B. Estimated decommissioning shall be updated every 5 years and the performance guarantee adjusted to maintain 150% of the cost of decommissioning. The updated performance guarantee shall be provided to the Town of China.

SECTION 12. DECOMMISSIONING AND REMOVAL

A. A ground-mounted SES that is subject to this Ordinance and 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 China 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.

B. Decommissioning shall consist of: (1) physical removal of all SES components, 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; and (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.

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

D. If the owner or operator of a ground-mounted SES 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 China 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 13. ENFORCEMENT

The Code Enforcement Officer shall be responsible for administering the provisions of this Ordinance, including interpreting the provisions hereof.

SECTION 14. SEVERABILITY

Should any SECTION or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other SECTION or provision of the Ordinance.

SECTION 15. CONFLICTS WITH OTHER ORDINANCES

Whenever a specific provision within this Ordinance conflicts with or is inconsistent with another specific provision within this Ordinance or a specific provision of any other Ordinance, regulation or statute, the more restrictive specific provision shall control.

SECTION 16. ADMINISTRATION

The Planning Board is authorized to review and act on all applications for ground-mounted SES subject to this Ordinance. In considering applications and plans under this provision, the Board may act to approve, disapprove, or approve with conditions as authorized by these provisions. No municipal permits shall be issued, nor construction work begun on any use or development covered by this Ordinance until the application has been approved by the Board. All work shall be carried out in accordance with the documentation submitted and approved by the Board.

SECTION 17. APPEALS

Any person aggrieved by a decision of the CEO or the Planning Board under this Ordinance may appeal the decision to the Board of Appeals, as provided by Chapter 9 of the China Land Development Code. Written notice of an appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

Legislative History

- Enacted June 11, 2024