SOLAR ENERGY FACILITY ORDINANCE OF THE TOWN OF ATHENS, MAINE

SECTION 1. TITLE

This Ordinance shall be known as and may be cited as the "Solar Energy Facility Ordinance of the Town of Athens, Maine", and will be referred to herein as the "Ordinance".

SECTION 2. PURPOSE

The purpose of this Ordinance is to regulate the installation of solar energy systems by providing standards for the site, design, construction, operation, monitoring, modifications, and removal of such facilities, and to address public safety. This Ordinance is intended to minimize the adverse impacts of solar energy systems on surrounding land uses, including visual and environmental impacts, impacts on historically significant areas, the public health, safety, and welfare, and surrounding property values, and to protect the health, safety and general welfare of the citizens and taxpayers of Athens by establishing standards and requirements for the permitting, construction, operation and decommissioning of Solar Energy Systems in Athens.

These standards are intended to:

A. Establish clear guidelines and standards for the Town to regulate Solar Energy Systems;

B. Permit the Town to fairly and responsibly protect public health, safety and welfare, including establishment of provisions necessary to prevent electrical damage and fire dangers, and to provide adequate provisions for traffic safety and emergency access;

C. Minimize any potential adverse effect of solar development on surrounding land use, ensuring that development is designed and developed in a manner which includes adequate provisions for water supply, sewage disposal, management of storm water, erosion, and sedimentation, protection of groundwater, protection of wildlife habitat, fisheries, and unique natural areas, conservation of farmland, protection of historic and archaeological resources, and minimization of adverse impacts on adjacent properties;

D. Guide development to ensure any Solar Energy System will fit harmoniously into the fabric of the community;

E. Provide for the decommissioning and removal of panels and associated utility structures that are no longer being used for energy generation and transmission purposes.

SECTION 3. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution, and Title 30-A, Section 3001 and Title 30-A, Section 4352 of the Maine Revised Statutes Annotated. This Ordinance does not alter the requirement of any solar energy system to comply with all other land use ordinances in effect in the Town of Athens. This Ordinance shall be applied in conjunction with any other applicable ordinance wherever possible; if any provision of this Ordinance conflicts with that of another ordinance, the most restrictive shall control.

SECTION 4. APPLICABILITY

Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of this Ordinance shall apply to all solar energy system installed after the date of its enactment.

All solar energy facilities shall be designed, constructed, and installed in accordance with all applicable codes, regulations and standards.

Any upgrade, modification or structural change that materially alters the size, placement, output, or ownership of an existing solar energy facility shall comply with the provisions of this Ordinance.

All Applicants for the installation of any LSES, modification of any existing LSES, or installation or modification of associated facilities must obtain a Conditional Permit with written approval from the Board of Selectmen and prior to operating must obtain a LSES Operating Permit from the Town.

SECTION 5. DEFINITIONS

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations, shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The definitions set forth herein shall control and apply to all sections and subparagraphs herein. The terms used in this ordinance shall have the following meanings:

ABANDONMENT

The date at which a solar energy system has been out of service for a continuous period of 12 months.

APPLICANT

Any individual, corporation, limited liability company, general partnership, limited partnership, estate, trust, joint-stock company, association of two or more persons having a joint common interest, or any other entity submitting an application for a LSES Permit, site plan approval, building permit, pole permit, and/or any other related approval, for the installation, operation and/or maintaining of one or more LSES facilities.

APPLICATION
Refers to all necessary and required documentation and evidence that an applicant must submit to receive a LSES Permit or other municipal approval for the operation of an LSES.

ASSOCIATED FACILITIES
Elements of a solar energy system other than its Generating Facilities that are necessary to the proper operation and maintenance of the LSES, including, but not limited to, buildings, access roads, generator lead lines and substations.

BOARD
The Select Board of the Town of Athens, also known as the Board of Selectmen.

BUILDING INTEGRATED SOLAR ENERGY SYSTEM
A solar energy system that is an integral part of a principal or accessory building, contained within roofing materials, windows, walls, skylights and awnings.

CONDITIONAL PERMIT
A permit issued by the Selectboard to a Large Solar Energy System permit applicant after processing a completed application. The Conditional Permit is required in order for the applicant to begin construction of a LSES.

ELECTRICAL EQUIPMENT
Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended location.

ELECTRICITY GENERATION
The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

EXPANSION OF A SOLAR FACILITY
Any physical modification to an existing LSES which alters the total rated capacity, the size, type or location of the facility.

GENERATING FACILITY
Solar panels and electrical lines, not including generator lead lines, that are normally operated together to capture and convert solar radiation to produce electricity for solar energy systems.

GROUND MOUNTED SOLAR ENERGY SYSTEM
A solar energy system that is structurally mounted on or to the ground. The panels may be stationary or tracking. Also known as free-standing solar energy system.

HISTORIC STRUCTURE
Any structure that is either listed on the National Register of Historic Places, or is eligible for inclusion in the National Register of Historic Places under 36 C.F.R. §63.1.

KILOWATT (kW)
A unit for measuring power that is equivalent to one thousand (1,000) watts.

LARGE SOLAR ENERGY SYSTEM (LSES)
Any ground-mounted or pole-mounted solar facility, project, or installation, including the associated solar arrays, solar related equipment, energy storage facilities, and components for distribution, which is intended to and/or in fact does generate electricity, with an aggregate panel area greater than ten thousand (10,000) square feet and with a total project area (including all fenced area, equipment area and service roads) not exceeding five (5) acres (217,800 square feet).

MEGAWATT (MW)
A unit for measuring power that is equivalent to one million (1,000,000) watts, or one thousand (1,000) kilowatts (kW).

MHPC
The Maine

NEPA

The National Environmental Policy Act, 42 U.S.C. §4321 et seq, the Council for Environmental Quality's rules at 40 C.F.R. Chapter V, Subchapter A and the FCC's implementing rules at 47 C.F.R. Part 1, Subpart I.

NHPA
The National Historic Preservation Act, 54 U.S.C. §300101 et seq, and 36 C.F.R. Part 800 et seq.

NOTICE OF INCOMPLETENESS, NOTICE OF INCOMPLETE APPLICATION
A written notice to an applicant seeking an approval for the installation of a LSES, wherein the sender advises the applicant that its application is incomplete, the wrong type of application, or is otherwise defective, and setting forth the reason or reasons why the application is incomplete and/or defective.

OPERATION
With regard to a Solar Energy System, the use of a solar array to transform of solar radiation into direct current electricity, the subsequent conversion of the direct current into alternating current, and transformation of the electrical current into a form that can be distributed on transmission lines.

OPERATION PERMIT
The permit that is required for a LSES to commence operations, issued by the Town to the Applicant for a Large Solar Energy System permit after construction is complete and prior to operation.

ORDINANCE
The Solar Energy Facility Ordinance of the Town of Athens, Maine.

PERMITTEE
The person(s) or entity(ies) to which a Solar Energy System Permit is issued.

PERSONAL SOLAR ENERGY SYSTEM (PSES)
A solar energy system with a total solar panel or solar array area less than ten thousand (10,000) square feet intended primarily to generate and supply electrical or thermal power to a dwelling, building or use located on the same lot or on an adjacent lot held or controlled by the same owner. The sale and distribution of excess energy to a public utility for distribution shall be an incidental use of a PSES and may not be its primary purpose. A PSES is accessory to the principal use and structure on the lot.

PERSONAL SOLAR ENERGY SYSTEM PERMIT
The permit required prior to commencing system construction, issued by the Town to the Applicant for a Personal Solar Energy System.

PRIMARY OR SECONDARY RESIDENCE
Any dwelling unit that includes toilet or outhouse facilities, and facilities for food preparation and sleeping.

PROHIBITED SOLAR ENERGY SYSTEM
A solar energy system with a total project area (including all fenced area, equipment area and service roads) exceeding five (5) acres (217,800 sq. ft.).

PV SYSTEM
Photovoltaic system.

RELATED THIRD PARTIES
Any entity contracting with applicant for the design, construction, maintenance, use or operation of the proposed small cell installation, including such entity's officers, contractors, subcontractors, and agents or any subsidiaries, affiliates, successors in interest or legal assigns.

SCHOOL
A public school, private school, or public preschool program as defined in 20-A M.R.S. §1, or any other educational facility that serves children from prekindergarten to grade 12.

SECTION 106 REVIEW
A review under Section 106 of the National Historic Preservation Act.

SOLAR ARRAY
A grouping of multiple solar panels combined together to create a solar energy system.

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

SOLAR ENERGY SYSTEM
Any ground-mounted or pole-mounted solar facility, project, or installation, including the associated solar arrays, panels, solar related equipment, energy storage facilities, and components for distribution, which is intended to and/or in fact does generate electricity

SOLAR PANEL
A frame mounted assembly of multiple connected photovoltaic cells.

SOLAR RELATED EQUIPMENT
Items including a solar photovoltaic cell, panel, or array, electrical cables, batteries, mounting brackets, framing, fencing, foundations or other structures used or intended to be used for collection and management of solar energy.

STATE
The State of Maine.

TOWN
The Town of Athens, Maine.

TOWN ORDINANCES
The Ordinances of the Town of Athens, Maine.

SECTION 6. APPLICATION TYPES
There shall be two (2) specific types of applications for Solar Energy Systems:

(A) Large Solar Energy System Permit Applications.
Large Solar Energy System applications shall be limited to applications wherein the applicant seeks to construct or operate a solar energy system with an aggregate panel area greater than ten thousand (10,000) square feet.

(B) Personal Solar Energy System Permit Applications
Personal Solar Energy System applications shall be limited to applications wherein the applicant seeks to construct or operate a solar energy system with an aggregate panel area of less than ten thousand (10,000) square feet.

SECTION 7. APPLICATION REQUIREMENTS
No solar energy system shall be sited, constructed, reconstructed, installed, materially changed or altered, expanded, or used unless in conformity with this Ordinance.
Prior to the installation, construction, erection, relocation, substantial expansion, or material alteration of any solar energy system the Town shall require a Permit, which shall be applied for in accordance with the procedures set forth within this Ordinance, unless otherwise provided herein below.

Applications for a Large Solar Energy System Permit or a Personal Solar Energy System Permit shall be made to the Select Board, who shall initially determine whether or not the application is complete and/or free of defects upon receipt of the same.

If the Select Board determines that the application is defective or incomplete, they shall promptly mail a Notice of Incompleteness to the applicant, specifying what additional application materials are required in order to process the application.

SECTION 8. GENERAL STANDARDS

(A) The following standards shall apply to all Large Solar Energy Systems (LSES) and Personal Solar Energy Systems (PSES) and shall be applied by the Select Board or Code Enforcement Officer during development review:
i) All LSES and PSES shall be placed such that concentrated solar radiation or glare does not project off site or onto nearby structures or roadways;

(ii) No LSES and PSES may generate noise greater than ten (10) decibels (db) above the preconstruction or existing background noise level, as measured from any property boundary;

(iii) All LSES and PSES and associated system equipment shall be maintained in accordance with industry standards and in good working order at all times until their decommissioning and removal. All LSES and PSES and equipment shall be kept free from all hazards, including faulty wiring, loose fastening, or conditions unsafe or detrimental to public health, safety, or general welfare. The owner/operator shall be responsible for the cost of maintaining the LSES or PSES and any access roads. Failure to adequately maintain any LSES, PSES or associated equipment shall constitute a violation of this Ordinance.

(B) Existing Solar Energy Systems
This Ordinance does not apply to any LSES or PSES permitted or existing prior to the Effective Date. Any physical modification to any existing LSES and PSES, whether or not existing prior to the Effective Date, that materially alters or expands the LSES or PSES shall require review and approval under this Ordinance, but in no event shall an expansion resulting in the overall system

meeting the standard for a Prohibited Solar Energy System be permitted. Routine maintenance or like-kind replacement do not require review or approval.

SECTION 9. PERSONAL SOLAR ENERGY SYSTEM STANDARDS

A PSES shall be permitted as a use by right within the Town and shall require a PSES permit from the Code Enforcement Officer. A PSES may not be erected, constructed, expanded, altered or installed except in accordance with the requirement of this ordinance. The following provisions shall apply to all PSES:

(A) No more than three (3) PSES shall be permitted on any one (1) lot; however, a PSES serving one building or use may be spread among more than one location on a single lot;

(B) All PSES shall be placed and positioned such that concentrated solar radiation or glare does not project anywhere off the site or lot on which the PSES is located;

(C) A roof-mounted or wall-mounted PSES may not extend beyond any portion of the roof or wall edges and shall provide a minimum three (3) foot buffer from the ridge and one edge of the roof or parapet to allow firefighter access;

(D) The owner is responsible for providing reasonable documentation proving structural integrity of the roof support for panels and mount; the Town is not responsible for any damage to the structure during the life of the solar array;

(E) Ground-mounted PSES may not be placed within any legal easement or right-of-way or be placed within any storm water drainage system or any other location or manner that would alter or impede storm water runoff from collecting in a storm water drainage system;

(F) PSES owner or operator shall provide a a fire safety plan that includes a copy of the project summary, electrical schematic, and site plan to the Select Board and the Fire Chief. All means of shutting down the solar energy system shall be clearly marked and should show the location of the dc and ac disconnect switches;

(G) There must be clear labeling in the home or building that indicates which power lines are connected to the PSES and where the different components are, so that firefighters can get to them quickly and easily. The PSES system disconnect must be able to disconnect the PV system from all other systems. The rapid shutdown initiation device must be labeled on the plans. The device must be either: service disconnecting means, PV system disconnecting means, or a readily accessible switch that plainly indicates whether it is in the "off" or "on" position. A disconnect means must be provided for all ungrounded conductors derived from a stationary battery system over 50 volts AC or 60 volts DC;

(H) The PSES owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

SECTION 10. LARGE SOLAR ENERGY SYSTEM STANDARDS

The following provisions shall apply to all LSES and associated solar energy system equipment, and any redesign or expansion thereof, which shall require approval by the Select Board:

(A) General Requirements

(i) No more than one (1) LSES shall be permitted or constructed on a single lot or combination of adjoining lots under the same common ownership or management;

(ii) No LSES may contain or be used to display advertising. Signage or labels containing the manufacturer's or owner name and equipment information may be permitted on any LSES solar energy system equipment, provided it is approved by the Select Board;

(iii) The LSES owner/operator shall provide a contact person responsible for communicating with the Town for the duration of the LSES and shall provide and maintain a phone number and contact information for such person. This information shall be provided to the Town and all abutters of the LSES;

(iv) The issuance of a permit under this Ordinance does not create in the LSES owner/operator, their successors or assigns, or in the property itself, the right to remain free of shadows or obstructions to solar energy caused by development or growth of any trees or vegetation on any other property;

(v.) Any transfer or change of ownership or operation of a permitted LSES shall be reported to the Town Select Board within 10 days. A reported transfer of change of ownership shall include evidence of the new owner's interest in the property and financial capacity to operate the permitted LSES.

(B) Setbacks.

(i) Any new Large Solar Energy Systems must be set back a minimum of two hundred (250) feet from any property lines and from any public road, as measured from the edge of the perimeter fence enclosure of the LSES to the property boundary;

(ii) Any new LSES must be set back a minimum of one thousand (1,000) feet from the property line of a parcel containing one or more LSES;

(iii) Any new LSES must be set back a minimum of one thousand (1,000) feet from any structure existing at the time of application which is used as a primary or secondary residence;

(iv) Property Line setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the closest edge or corner of the required perimeter fence enclosing a LSES and any adjacent property lines;

(iv) Setbacks from residences shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the closest edge or corner of the residence structure and the closest edge or corner of the perimeter fence enclosure of the LSES;

(v) Components of a LSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(C) Size and Lot Coverage

(i) The maximum land area permitted for an LSES shall be five (5) acres. This maximum shall be calculated based on the area encompassed within the perimeter fencing of the LSES and any areas of the overhead transmission lines;

(ii) No LSES requiring clearance or cutting of greater than five (5) acres of timber may be permitted. These five (5) acres include any clearance or cutting in the past five (5) years. Additional clearance or cutting is permitted only for necessary removal/salvage operations connected with disaster, blowdowns, or disease infestation. Such additional clearance or cutting may not be used for placement of solar panels, energy storage devices, transmission lines or setbacks;

(iii) No more than one LSES may be permitted or constructed on a single lot. No LSES may be interconnected with an LSES on an adjacent lot or have its perimeter fencing extend beyond the property line of the lot on which the LSES is located;

(iv) The surface area of solar panels installed as part of ground-mounted LSES, regardless of their mounted angle, shall be considered impervious for stormwater management purposes.

(D) Wooded Buffer

(i) Any LSES shall include a natural, undisturbed wooded buffer extending two hundred (200) feet horizontally from all exterior property lines;

(ii) The wooded buffer shall include a minimum of twenty-five (25) trees exceeding two (2) inches in diameter at four (4) feet above the ground along any one hundred (100) foot buffer length, as measured at the property line;

(iii) Additional trees shall be planted where necessary to achieve this standard and shall be of the same species as existing trees in the immediate area. Newly planted trees within the buffer shall be a minimum of one and one-half (1.5) inches in diameter at four (4) feet above the ground and shall be placed so as to screen the LSES from view from adjacent properties or public or private ways;

(iv) A wooded buffer is not required at vehicular entrances, utility right of ways, and similar required openings;

(v) The wooded buffer shall be maintained or planted to visibly separate an LSES from adjacent properties, roads, and water bodies. No portion of any LSES may be visible from any abutting property, road or lake or other water body, including great ponds, rivers, and streams, except as exempted above.

(E) Topsoil and Erosion Control;

(i) Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of LSES. Except for normal thinning, landscaping, cutting or trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion;

(ii) Removal of mature trees shall be avoided to the greatest extent possible;

(iii) Native, pollinator-friendly seed mixtures shall be used for revegetation to the greatest extent possible;

(iv) General Use herbicides and pesticides shall be prohibited;

(v) No prime agricultural soil or soil from Farmland of state-wide significance, or significant volume of topsoil shall be removed from the site for installation of the facility. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations. The developer shall take measures to correct and prevent soil erosion in the proposed development;

(vi) Erosion and sediment control installation shall be inspected and approved by the Code Enforcement Office before any earth moving and/or construction shall commence. Best Management Practices for Erosion and Sediment Control as established by the Maine DEP shall be implemented by the LSES developer;

(vii) Construction of a LSES shall commence no earlier than May 1st and shall cease no later than October 31st of each year. The Code Enforcement Officer shall determine that the area has been stabilized for the winter;

(viii) Permanent stabilization (90 percent vegetation) shall be reached thirty (30) days after construction has been completed;

(ix) LSES Installation methods shall be restricted to pile driven or ballast block footing so as to minimize the disturbance of soils during installation.

(F) Design and Construction

(i) The layout, design, installations, and ongoing maintenance of an LSES 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), the Institute of Electrical and Electronics Engineers (IEEE) or other similar certifying organizations;

(ii) The layout, design, installation, and ongoing maintenance shall comply with all applicable federal, state, and local codes, including applicable building codes and fire and life safety requirements;

(iii) A LSES may not be artificially lighted except to the extent required for safety or by applicable federal, state, or local authority;

(iv) Proposed site re-grading shall be kept to the minimum amount necessary. The Select Board may require any topsoil removed to be stored and stabilized on-site for future use, including for decommissioning the LSES;

(v) Ground-mounted LSES shall not exceed fifteen (15) feet in height;

(vi) Ground-mounted LSES shall not be placed within any legal easement or right-of-way or be located or placed within any storm water drainage system in any manner that alters or impedes storm water runoff from collecting in a storm water drainage system;

(vii) Any excavation exceeding that required for installation of the LSES shall be considered mineral extraction and subject to any applicable standards for that use.

(G) Maintenance

(i) The LSES owner/operator shall maintain all LSES and related solar energy system equipment in good repair and operating condition, consistent with industry standards for the duration of the LSES permit.

(H) Fencing

(i) Fencing that is required to enclose the LSES shall be designed to maximize wildlife's ability to permeate fencing. 'Solid Lock Game Fences' or equivalent fencing that meets National Electric Code for human safety shall be used. Such fencing must start with eight (8) inch by twelve (12) inch openings at the bottom (ground) with progressively smaller openings at the top of the fence.

(ii) Fencing must include placement of five (5) inch or larger diameter wooden escape poles in two or more corners of the perimeter fence as an alternative means for wildlife to escape the enclosed area. All perimeter fencing shall be elevated at least six (6) inches from the ground to permit passage by small terrestrial animals.

(I) General Safety

(i) Signage containing conspicuous warnings regarding electrical voltage and transmission shall be placed at intervals of one hundred fifty (150) feet along all perimeter fencing and on all ground-mounted electrical devices, equipment, and structures, including transformers, inverters, and substations. All electrical control devices associated with an LSES shall be locked at all times to prevent unauthorized access or entry.

(ii) No fuel, battery storage or other hazardous material shall be stored or buried on site.

(iii) A LSES must provide adequate access, parking and circulation for service and emergency vehicles, as determined by the Select Board in consultation with the Fire Chief. At least one (1), twenty (20) foot wide, all-weather access way must be provided from a public way to the LSES. The access way must comply with the performance standards for roads and include appropriate turning areas and turnaround to facilitate access by emergency vehicles.

SECTION 11. LSES PERMIT APPLICATION REQUIREMENTS

The application for a Large Solar Energy System Conditional Permit shall include the following information:

(A) The name and addresses of owner and operator along with a copy of the Lease Agreement;

(B) Name, address and contact information of the project proponent, project proponent agent and all co-proponents, funders, investors or property owners, if any, demonstrating their consent to the application and the use of the property for the LSES;

(C) Name, address and contact information of proposed or potential system installer and the operator of the LSES; Information about the actual system installer and operator shall be submitted prior to the issuance of a solar energy system Operation Permit;

(D) A description of the owner of the LSES and detail of qualifications and track record of the owner and operator to run the facility;

(E) Proof of financial capacity to construct and operate the proposed facility;

(F) Survey of proposed site by a licensed Maine surveyor, including rights of way and easements;

(G) Blueprints or drawings of the LSES showing the proposed layout of the system, the distance between the proposed solar collectors and all abutting property lines;

(H) A map showing the LSES property lines and the property lines of any primary or secondary residence located within 1,000 feet of the subject property;

(I) A site plan showing property lines, the location of proposed panels, equipment, fencing and access road, and the location and setback of any roads;

(J) Locations of wetlands and waterbodies, shoreland zones, floodplains or well-based head protection areas within 500 feet of the LSES, if any;
(K) Locations of important plant and animal habitats identified by the Maine Department of Inland and Fisheries and Wildlife within 500 feet of the LSES, if any;
(L) Locations of any historical sites, including cemeteries, within 1,000 feet of the property line of the LSES, if any;
(M) Scaled plans of the LSES showing proposed changes to the landscape of the site, including grading; vegetation, clearing and planting; all screening, fencing, lighting, structures and arrays; property line metes and bounds; all water-related features onsite and in the vicinity, including water courses and bodies, wells, wetlands, flood hazards areas and vernal pools; the location of all perimeter fencing and access roads; all existing tree lines, rock outcropping, trails, roads, fences, buildings, structures and foundations; all above or below-ground utilities or transmission lines; and the locations of any deer wintering areas on site;
(N) Vegetation control plan, specifying type of use of herbicides, fungicides, or pesticides, if any. The plan shall include efforts to promote beneficial flora and fauna (e.g. bees, butterflies, etc.) as well as a commitment to limiting or avoiding use of potentially toxic pest-control substances (e.g. pesticides, herbicides, fungicides, and/or insecticides);
(O) An operations and maintenance plan, including site control and the projected operating life of the system, that includes measures for maintaining safe access to the installation, as well as general procedures for operational maintenance of the installation.
(P) Property operation and maintenance plan that describes continuing solar energy system maintenance and property upkeep, such as road maintenance, fence maintenance, and snow removal;
(Q) A stormwater management plan, certified by a licensed Maine engineer, that demonstrates stormwater from the LSES will infiltrate into the ground beneath the LSES at a rate equal to that of the infiltration rate prior to the placement of the system.
(R) A description of the panels to be installed, including the number of panels, make and model, including details regarding the content of toxic materials (including cadmium telluride, copper indium selenide, cadmium gallium (di)selenide, copper indium gallium (di)selenide, hexafluoroethane, lead, polyvinyl fluoride, silicon tetrachloride, lead, arsenic, cadmium, chromium, mercury, and PFAS or PFOS) in the proposed system. If the panels, batteries, transformers, or other equipment contains potentially toxic materials, the Operations and Maintenance Plan shall address spill prevention, land contamination prevention, and future disposal.
(S) A preliminary equipment specification sheet that documents all proposed solar panels and/or collectors, storage batteries, 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 and including manufactures' specifications and cut sheets;
(T) A construction plan and timeline, identifying known contractors, site control and anticipated on-line date;
(U) If the operator 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 operator, landowner and any other responsible party with regard to the LSES and the life of the agreement;
(V) A description of how and to whom the energy produced will be sold and a copy of the agreement 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, including a written confirmation from the public utility company to which the LSES will be connected stating that the utility has been informed of the LSES owner/operator's intent to install a grid connected system and that it has approved, or conditionally approved, such connection, or a signed interconnection agreement;
(W) A copy of all covenants or deed restrictions, easements, rights-of- way, or other encumbrances currently affecting the property;
(X) An emergency management plan for all anticipated hazards;
(Y) A Waste Stream Management Plan (WSMP) for the construction waste and debris at the site of the LSES, including but not limited to cardboard, wood, scrap metal, scrap wire, plastic, and clearing and grading wastes, from the construction site and the disposal site(s) of such waste. Information on the amount of material that is being recycled shall be included in the WSMP. The Code Enforcement officer shall conduct a final inspection to ensure compliance with the approved plan;
(Z) A complete fire safety plan that includes a general description of the LSES for purposes of ensuring the Fire Department is fully informed and prepared in case of a fire. The Fire Safety Plan shall specify how the equipment operation and maintenance will be in compliance with NFPA 1 Fire Code, NFPA 70 National Electric Code, NFPA 855 Standards for the Installation of Energy Storage Systems, NFPA 110 Standard for Emergency and Standby Power Systems, NFPA 111, Stored Electrical Energy Emergency and Standby Power Systems. The fire safety plan must include, but is not limited to, the following:

(i) Location of all Fire Safety Plan documents;
(ii) Location of the facility's alarm panel;
(iii) List of emergency contacts;
(iv) Specific responsibilities assigned to designated personnel;
(v) Listing and location of batteries, including description of quantities and types of batteries, specifying whether batteries are lithium-ion, nickel cadmium, sodium-nickel, valve-regulated lead acid, and/or vented, and description of any associated exhaust ventilation system(s);

(vi) Description of actions to detect and prevent thermal runaway events;
(vii) Description of whether the facility will be located in a lightning-prone area. If the facility is to be located in a lightning-prone area, description of how the facility shall comply with NFPA 780 Standard for the Installation of Lightning Protection Systems;
(viii) Location(s) of hydraulic oil systems;
(ix) Electrical schematics, inverter, switchgear, battery, and cable diagrams and locations;
(x) Transformer descriptions and locations and an description of any transmission or distribution lines, access, or upgrades to be built as a result of the LSES, including route starting and ending points;
(xi) Location of Knox Box;
(xii) Description of location and types of fuses used to ensure that if the facility experiences overcurrent resulting from current exceeding the rating of equipment or the ampacity of a conductor, the facility shall turn off temporarily;
(xiii) Description of methods used to ensure impedance matching and to prevent of mismatches between sources, conductors, and loads;
(xiv) Description of actions and procedures to prevent overheating of breakers;
(xv) All means of shutting down the solar energy system shall be clearly marked. Depowering procedures including identification of locations of electrical depowering devices or service disconnecting means, which include:

(a) Coded floor prints located in the Fire Safety Plan document;

(b) Facility signage to direct fire personnel to depowering locations.

SECTION 12. FIRE DEPARTMENT REVIEW

After submittal by the applicant of a complete application, the Select Board shall transmit the application packet to the Fire Chief. The Fire Chief shall review the application for compliance with objective health and safety standards related to fire hazards, including but not limited to all applicable provisions in NFPA 1, Fire Code, Chapter 52, NFPA 70, National Electrical Code, Article 706, NFPA 855, Standard for the Installation of Energy Storage Systems, NFPA 110, Standard for Emergency and Standby Power Systems, NFPA 111, Stored Electrical Energy Emergency and Standby Power Systems, and NFPA 850, Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations. The Fire Chief shall inform the Select Board in writing of the Chief's conclusions and any recommended conditions for public health and safety.

The Fire Chief has the explicit authority to select and retain an independent consultant with expertise and/or specialized training in fire safety and fire hazard mitigation and prevention satisfactory to the Fire Chief in connection with any permit application. The Fire Chief may request independent consultant review on any matter committed to Fire Department review or approval. Subject to applicable law, in the event that the Fire Chief elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. The same procedures for fee deposits, cost reimbursements and refunds to the applicant relating to retaining a consultant as described in this Ordinance shall be applicable to independent consultant review required by the Fire Chief.

If the applicant plans to install systems such as Energy Storage Systems (ESS) that require safety training or fire suppression equipment that the Athens Fire Department does not currently possess, the applicant will be responsible for providing training, equipment, and housing for use and maintenance of required equipment. If the Athens Fire Department has Mutual Aid Agreements with Fire Departments from surrounding towns, and those towns lack training necessary to provide adequate fire protection from the applicant's equipment, the applicant shall provide safety training for those Departments.

SECTION 13. DECOMMISSIONING AND PERFORMANCE GUARANTEE

All LSES permit applicants shall submit a decommissioning plan that meets the requirements set forth in 35-A M.R.S.A. §§ 3491 through 3496, as may be amended, and pertinent regulations promulgated by the Maine Department of Environmental Protection. The decommissioning plan shall include the following:

(A) The LSES owner/operator shall submit to the Town a financial guarantee in the form of a performance bond, surety bond, irrevocable letter of credit or other form of financial assurance acceptable to the Select Board, to provide assurance to the Town that the facility will be properly removed and remediated upon abandonment or termination of production. The amount of financial guarantee shall be updated annually,

(B) If a bond or letter of credit is provided as a financial guarantee, the Town shall be listed as a co-beneficiary, and the Select Board shall be listed as the designated point of contact on behalf of the Town,

(C) Failure of the LSES owner/operator to maintain any submitted performance guarantee, through nonpayment of premiums or otherwise, shall be evidence of a breach of the approval which, if not remedied within thirty (30) days shall require the project owner to notify the Maine Public Utilities Commission (MPUC), and any fiscally connected party, that they are in breach of their Town approval. Production from the LSES shall be suspended beginning on the 30th day following expiration or termination of a performance bond or letter of credit and until the Town certifies that the guarantee has been properly reestablished. Failure to suspend production as required shall be subject to a minimum penalty of $500 per day. Any proceeds from solar production

improperly generated during a required period of suspension shall be forfeited to the Town as additional penalty for noncompliance,

(D) An updated financial guarantee shall be submitted with any application seeking change in ownership of an LSES,

(E) Any LSES that have failed to operate for more than one (1) year shall be decommissioned and removal by the owner/operator in accordance with the approved decommissioning plan, or for LSES constructed before the effective date of this Ordinance, in accordance with standard requirements as enforced by the Maine Department of Environmental Protection. Decommissioning shall include:

(i) Physical removal of all components of the system above and below ground, including structures, equipment, security barriers, and transmission lines;

(ii) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. Waste material and rubbish, including solar panels and associated solar energy system equipment, shall not be stored or allowed to accumulate in the immediate vicinity and shall not be buried in the Town of Athens;

(iii) Stabilization and revegetation of the site as necessary to minimize erosion; native seed mixture shall be used to the greatest extent possible;

(iv) Failure of the owner-operator to properly and fully decommission the LSES within one (1) year of the last date of production shall entitle the Town to access any provided financial guarantee and to enter the property and conduct all decommissioning activities necessary. The deadline for decommissioning may be extended for no more than a one (1) year period, if the owner/operator provides information to the Code Enforcement Officer certifying that the cease in production is temporary and will be resumed within that year.

SECTION 14. LSES APPLICATION AND REVIEW PROCESS

The applicant for a LSES Permit shall apply using the following process:

(A)A LSES applicant must apply for and receive approval in the form of a LSES Conditional Permit issued by the Board of Selectmen, prior to commencing construction of the facility. The solar facility may not commence operations without also obtaining a LSES Operation Permit;

(B) Prior to submitting an application for a LSES Conditional Permit and the start of the review process, a pre-application conference with the Board of Selectmen shall be held;

(C) The Applicant shall submit one original application and one copy, complete with all required supporting information and the appropriate application fee;

(D) The application shall include a list of abutting property owners with addresses, a copy of the notice to the abutters specifying the location, size and general description of the project, along with the return receipts showing proof of notice to the abutting property owners by certified mail;

(E) In order for the Town to be more fully informed about the site, the Board of Selectmen and Code Enforcement Officer may schedule a site walk. The Applicant shall delineate property boundaries as well as the locations of proposed improvements such as solar arrays, entrance road, etc. with appropriate flagging;

(F) Any LSES system shall be incorporated into the description of the real property in the lot/property deed and registered with the Somerset County Registry of Deeds as a condition of approval by the Board of Selectmen;

(G) Once an application is deemed to be complete, the project will be reviewed by the Code Enforcement Officer and Board of Selectmen for compliance with the Ordinance standards and a Public Hearing will be scheduled;

(H) Within thirty days of the submission of the permit application to the Town, the Applicant will be notified in writing if their application is complete or incomplete. If it is incomplete, a list of outstanding items will be included in the notification letter. Each time revisions are submitted on an incomplete application the Board of Selectmen has another thirty days to review the revised materials to make a determination of completeness.

SECTION 15. PUBLIC HEARING

The Board of Selectmen shall hold a Public Hearing on a LSES application as follows:

(A) The public hearing shall be held within thirty days after the application for a LSES permit is deemed complete. This period may be extended for up to sixty days by vote of the Board of Selectmen;

(B) The notice of the date, time and place of the Public Hearing shall be posted in at least two conspicuous, public places in the town at least seven days prior to the hearing;

(C) The notice of the date, time and place of the Public Hearing shall be mailed by first-class mail to the Applicant, at least seven days prior to the hearing;

(D) The notice of the date, time and place of the Public Hearing shall be mailed by first-class mail to all abutting property owners as determined from the current tax assessment data, at least seven days before the public hearing. The Board of Selectmen shall maintain a list of all property abutters mailed a notice in the application file. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board of Selectmen to schedule another hearing;

(E) The costs of the Public Hearing notice mailing shall be paid by the Applicant.

The Board of Selectmen may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

SECTION 16. LSES CONDITIONAL PERMIT

The Town of Athens may issue a Conditional Permit for an LSES if the following conditions are met:

(A) After the Public Hearing is concluded, and within thirty days of the Board finding the application complete, the Board shall vote to issue a Large Solar Energy System Conditional Permit or to disapprove the application. This period may be extended by mutual written agreement (by being recorded in the Board meeting Minutes);

(B) In approving the project, the Board must find that all of the applicable provisions of this Ordinance have been satisfied or can be satisfied pursuant to any conditions imposed by the Board. The Board shall inform the Applicant in writing of its decision within thirty days of the date of such decision;

(C) One copy of the approved LSES plan shall be retained in the Town Office and one copy shall be given to the Code Enforcement Officer;

(D) The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this Ordinance. The Board may condition final approval on receipt of copies of all state or federal permits required by the project including, but not limited to, Natural Resource Protection Act Permit, Traffic Movement Permit, Site Location of Development Permit and US Army Corps of Engineers permits;

(E) If the application concerns property which in whole or part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with this Ordinance and any other relevant town ordinances;

(F) The Solar Facility Permit shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.

SECTION 17. LSES OPERATION PERMIT

The Town of Athens may issue a Conditional Permit for an LSES if the following conditions are met:

(A) After a LSES has received a Conditional Permit, but before the LSES begins operating, the Applicant must obtain an Operation Permit from the Board of Selectmen;

(B) The LSES site construction shall be reviewed by the CEO to ascertain compliance with approvals as granted by the Board before the LSES Operation Permit will be issued by the Town. The Applicant must provide proof to the CEO that all required state or federal licenses or permits are current;

(C) Prior to operation, electrical connections of the LSES must be inspected and approved by a State Electrical Inspector;

(D) Once an Operation Permit is issued and before the LSES is operational, any additional expenses incurred by the Town to ensure compliance with Board approval and the provisions of this Ordinance that exceed the Operation Permit fee shall be reimbursed to the Town before an Operation Permit will be issued.

SECTION 18. PERMIT FEE

An application to the Town for a LSES Operation Permit shall be accompanied by a $250.00 Permit Application fee, plus a performance guarantee as described in Section 13.

SECTION 19. RENEWAL OF PERMIT

A LSES must apply annually for renewal of its Operation Permit. Any additional expenses incurred by the Town to ensure compliance with Board approval and the provisions of this Ordinance that are greater than the Operation Permit fee shall be reimbursed to the Town before a renewal license will be issued.

Areas of review shall include, but are not limited to, the following:

(A) Spot checking of solar panels or collectors for cracking or evidence of water infiltration within the panels or collectors. Any panel or collector identified as deficient or defective by the CEO shall be removed, mitigated and or replaced by the LSES owner or operator within thirty days;

(B) Compliant perimeter fencing in good repair;

(C) Proper grounding of equipment;

(D) Proper signage;

(E) Proper installation and maintenance of all safety systems;

(F) Proper control of vegetation;

(G) Proper maintenance of roads within the LSES;

(H) Proper storage and disposal of any potentially hazardous materials;

(I) Proof that all required state or federal licenses or permits are current.

SECTION 20. RENEWAL FEE

A renewal LSES Operation Permit application accompanied by a fee of $250.00 must be submitted annually. A review by the CEO is required for the renewal of the Operation Permit.

SECTION 21. PERMIT TRANSFER

The owner or lessee of an approved LSES may transfer the Operation Permit to another owner or lessee upon approval of the Board provided the following conditions are met:

(A) The new owner or lessee shall submit a signed and notarized statement that they will adhere to the conditions and specifications of the Operation Permit;
(B) The new owner or lessee shall submit documentation that performance guarantees in compliance with this Ordinance have been obtained;
(C) The new owners or lessees shall conform to all construction, site development, uses, and conditions as specified in the original approval granted by the Board of Selectmen.
(D) The Board may require as a condition of approval for an LSES Permit holder to transfer the Operation Permit to another owner or lessee that any new owner or lessee meet with the CEO or designee to document that the facility is in compliance with all applicable requirements of this ordnance and Board approval.

SECTION 22. TRANSFER FEE
A transfer application fee in the amount of $250.00 shall be submitted with any transfer request to the Board. The new owner or lessee will be responsible for any additional expenses incurred by the Town to ensure compliance with this Ordinance that exceed the transfer application fee.

SECTION 23. INSPECTIONS AND MAINTENANCE
The LSES owner or operator shall maintain the facility in good condition, subject to the following provisions:
(A) Maintenance shall include, but not be limited to, painting, structural repairs, vegetative screening, fences, landscaping and plantings and integrity of security measures. The LSES must be properly maintained and be kept free from all hazards, including but not limited to faulty wiring, loose fastenings, spillage of potentially hazardous liquids, being in an unsafe condition or detrimental to public health, safety or general welfare;
(B) The owner or operator shall be responsible for the cost of maintain the LSES and any access road(s), including regular plowing of snow to maintain road access;
(C) Emergency phone number shall be posted in case of emergency at the LSES;
(D) The operator shall report to the Board of Selectmen and Fire Chief within 24 hours of any spillage of hazardous fluid to the ground surface, such as the leakage from an inverter or of transformer cooling oil. The operator is responsible for any costs associated with cleanup of the fluid and remediation necessary to prevent groundwater contamination and returning the land to pre-spill conditions;
(E) Site access shall be maintained to a level acceptable to the Fire Chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the LSES and any access road(s), including regular plowing of snow to maintain road access;
(F) The CEO shall have the right to perform a non-emergency inspection upon giving notice to the owner or operator;
(G) The CEO shall have the right to perform an Emergency inspections with no notice to the owner or operator, in the event that an Act of God or other disaster has occurred which could be reasonably believed to have damaged or cracked any solar panels or collectors.

SECTION 24. ABANDONMENT
Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a LSES shall be considered abandoned when it fails to operate for more than one year.
If the owner or operator of the solar energy system fails to remove the installation within 365 days of abandonment or the proposed date of decommissioning, the Town retains the right to use all available means to cause an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system to be removed.

SECTION 25. APPLICABILITY
Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of this Ordinance shall apply to any LSES modified or installed after the date of its enactment.
All Large Scale Solar Facilities shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards. Any upgrade, modification or structural change that materially alters the size, placement or output of an existing LSES system shall comply with the provisions of this Ordinance.

SECTION 26. INTERPRETATION
The provisions of this Ordinance shall be construed as minimum requirements. More stringent provisions may be required if it is demonstrated they are necessary to promote the public health, safety and welfare. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

SECTION 27: VALIDITY AND SEVERABILITY
Should any section or provision of this Ordinance be declared by courts to be invalid, such a decision shall not invalidate any other section or provision of this Ordinance.

SECTION 28: EFFECTIVE DATE
This Ordinance is effective as of March 8, 2025, the date upon which it received approval by the majority of voters at Town Meeting. This Ordinance shall remain in effect until terminated or amended by a majority vote of a Town Meeting.