

UTILITY SCALE SOLAR ENERGY FACILITY ORDINANCE

FOR THE

TOWN OF CAMBRIDGE, MAINE

Enacted by the town March 4, 2023

Certified copy, attested

Town Clerk

Section 1. Purpose

The purpose of this Ordinance is to establish a municipal review procedure and siting standards for any **Utility Scale Solar Energy Facility (USSEF)** within the boundaries of the Town. These standards are intended to:

- a. Establish clear guidelines and standards to regulate any USSEF;
- b. Permit the Town to fairly and responsibly protect public health, safety and welfare;
- c. Support the development of any USSEF in a manner that minimizes any potential adverse effects on the scenic, cultural, and natural resource character of the Town;
- d. Provide for the removal of panels and associated utility structures that are no longer being used for energy generation and transmission purpose; and
- e. Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural and scenic resources.

Section 2. Authority

This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRS, §3001 et seq (Home Rule), and the provisions of Title 30-A MRS, §4312 et. seq. (Comprehensive Plan).

Section 3. Applicability

No Utility Scale Solar Energy Facility shall be located within the Town without a Permit issued by the Selectmen. Any physical expansion, reconfiguration, increase in the Rated Nameplate Capacity or transfer of ownership shall also require approval from the same permitting authority as required for any new USSEF under this Ordinance. Routine maintenance or replacements do not require a permit.

Section 4. Definitions

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance the most reasonable application. Words used in the present tense include the future, singular includes the plural and the plural includes the singular. The word “may” is permissive; and the word “shall” is mandatory and not discretionary.

- a. **Financial capacity:** Means the demonstration of current financial capacity to fully fund decommissioning of a USSEF in accordance with an approved decommissioning plan under this Ordinance.
- b. **Rated Nameplate Capacity:** means the maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

- c. **Residential Dwelling Structure:** means any structure that includes a room with a bathroom, cooking, and sleeping facilities designed for use as permanent, seasonal, or temporary living quarters.
- d. **Transfer of ownership:** means a change in the legal entity that owns a USSEF. A sale or exchange of stock, membership interests or a merger is not a transfer of ownership as long as the legal entity that owns a USSEF remains the same.
- e. **Utility Scale Solar Energy Facility:** is any solar energy facility, project, or installation which is intended to capture solar energy to produce and sell electricity to the electric grid supplying the local utility with power.
- f. **Town:** Town of Cambridge
- g. **CEO:** Code Enforcement Officer
- h. **USSEF:** Utility Scale Solar Energy Facility
- i. **Operator:** Owner and/or Operator

Section 5. Administration and Enforcement

- a. This Ordinance will be administered based on specific application requirements, standards of review, and other requirements pertinent to any USSEF within this Ordinance.
- b. **Permit Required:** A Permit from the Selectmen is required prior to the installation, construction, or expansion of a USSEF. All USSEFs must meet the requirements of all Town Ordinances, this Ordinance, all federal and state electrical codes and permitting requirements. In case of a conflict, the stricter provision shall apply.
- c. Violations of these requirements will result in a suspension of the approved permit until such time as the violations are corrected and the USSEF is in compliance.

Section 6. Specific Application Requirements

- a. For any USSEF, the initial application fee deposit shall be \$10,000. An applicant shall deposit the application fee with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum of \$5,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$5,000, the applicant shall deposit additional funds to bring the account balance to \$7,500 within five (5) business days of being notified by the Town. The

Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed USSEF. In the event an applicant fails to maintain the account balance as provided for herein, the USSEF application shall be suspended until such time as the account is maintained. If not maintained after a period of 6 months the application will be deemed abandoned and then denied by the Selectmen and the remaining funds will be forfeited.

- b. The operator of the facility must provide a detailed list of qualifications and track record to run the USSEF.
- c. If the operator is leasing the land, a copy of the lease agreement (excluding 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 USSEF. The submission of an updated agreement is required if there are any changes to the agreement, excluding financial compensation.
- d. A description of the energy to be produced by the USSEF and to whom it will be sold.
- e. A copy of the agreement and schematic details of the connection arrangement with the local electric grid, clearly indicating which party is responsible for various requirements and how they will be operated and maintained.
- f. A description, including manufacturer specifications, of the panels and associated major components to be installed at the facility.
- g. A construction plan identifying known contractors, site control protocols, and anticipated on-line date, updated with changes as necessary.
- h. A land survey plan of the proposed site, including any Rights of Way and Easements on the property, prepared by a licensed Maine surveyor.
- i. Results of soil analysis, for the proposed USSEF site, shall include a composite sample per each 10 acre section of the site, consisting of 1 sample from each acre in each 10 acre section. Test sites must be identified on the site plan. Soil tests will consist of soil type and any other analysis recommended by the Maine DEP to detect the presence of any existing contamination.
- j. An operations and maintenance plan, including site control and spill prevention measures over the projected operating life of the facility.
- k. An emergency management plan for all anticipated hazards.
- l. Proof of financial capacity to construct and operate the proposed USSEF.
- m. A Visual Impact Assessment

An analysis to determine potential visual effect of the USSEF must be undertaken.

The visual impact assessment must be prepared by a design professional trained in visual assessment procedures. The assessment must be completed following standard professional practices to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures.

In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described.

A visual impact assessment must also include narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.

The Visual Impact Assessment must include, but are not limited to, the following elements:

i. A visual and cartographic analysis (Viewshed Analysis)

A geographical representation of all the areas of where the USSEF, from its highest points, is visible from the surrounding (impact) area should be presented. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the impact area from which the activity will be visible, including representative and worst-case viewpoints, must be identified. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined that the eye follows from a specific point to another point when viewing the landscape.

ii. Site inventory and photographic review.

This should provide a comprehensive and objective means by which to analyze and assess the potential visual and aesthetic impacts that may result from the USSEF and its associated elements.

iii. Visual Simulations - Visual simulations should be provided to show a photo-realistic perspective view of proposed USSEF elements in the landscape, thereby allowing abutters to clearly visualize how a project will really look from their primary residential structure.

n. A Decommissioning Plan, including:

- i. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of 6 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 6 months, the project has not been abandoned and should not be decommissioned. A 6 month extension can be granted by the selectmen provided work to restore the USSEF is in progress. There is a presumption that decommissioning is required if no electricity is generated for a continuous period of 1 year.
- ii. The operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The operator shall notify the Selectmen and CEO by certified mail, return receipt requested, of the proposed date of the discontinuation of operations and plans for removal of the USSEF.
- iii. A description of the work required to physically remove all solar panels, associated foundations, buildings, cabling, electrical components, any other associated facilities and the grading and re-seeding of all earth disturbed during decommissioning. Verifiable proof of the proper disposal of panels and all other hazardous waste components must be submitted prior to release of any escrow funds.
- iv. An estimate of the total cost of decommissioning, itemizing the major cost, shall include, but is not limited to, the cost of the removal of the following structures: solar panels, foundations, building, transmission corridor, road infrastructure, and measures taken to minimize or prevent adverse effects on the environment during and after implementation of the decommissioning plan by a professional trained in estimating decommissioning procedures.
- v. All soil must be tested at the same locations as the composite samples required before installation. Should the results of the soil analysis indicate the presence of contaminants above EPA Maximum Contamination Level (MCL) decontamination will be required at the expense of the owner prior to decommissioning is approved by the Selectmen.
- vii. Transfer of ownership. Upon a transfer of ownership of a USSEF subject to a decommissioning plan approved under this ordinance, a person or entity that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Selectmen approve transfer of the decommissioning plan to the new owner.

Section 7. Standards for Approval

- a) Legal Responsibilities: The applicant must provide proof of authorization to construct, use, and maintain the property and any access roads and easement for the life of the USSEF, including its decommissioning. The roles and responsibilities of the facility owner, operator, landowner and any other party involved in the USSEF must be clear and meet the satisfaction of the Selectmen and CEO, that the public interest is protected.
- b) A USSEF shall have a minimum of 10 acres.
- c) Setbacks: Structures (including fencing) that are part of a USSEF shall be setback at least 15 feet from any boundary lines and a minimum of 100 feet from any existing residential dwelling structure.
- d) Height: The USSEF shall be no more than 15 feet high, from ground level, at its tallest point of any equipment, with the exception for transforming equipment and transmission lines.
- e) Utility Notification: No USSEF shall be installed until evidence has been given to the Selectmen that the applicant has an agreement with the local utility to accept the power.
- f) Fencing: A USSEF shall be enclosed by fencing to prevent unauthorized access. Landscaping shall be required to avoid adverse aesthetic impacts of installed fencing to adjacent properties.
- g) Signage: Shall identify the operator, provide a 24-hour emergency contact phone number, the official e911 address of the USSEF, and be clearly visible, from both directions of travel, from any public road abutting the USSEF.
- h) Clearly visible warning signs shall be placed at the base of all pad-mounted transformers, substations and on the fence surrounding the USSEF, informing individuals of potential voltage hazards, including stating the output of power (AC or DC).
- i) Visual Impact: Per Visual Impact Study
- j) Emergency Services: The USSEF operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town Fire Chief. Upon request, the operator shall coordinate with local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX", or improved equivalent, shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the USSEF shall be clearly marked. The operator shall identify a responsible person for public inquiries throughout the life of the installation.

Access roads to the USSEF shall be of sufficient quality and dimensions to satisfy the Town Fire Chief, that any emergency response vehicles be able to easily and safely gain access to and around the site.

- k) Maintenance Conditions: The USSEF operator shall maintain the USSEF, all associated fencing and landscaping elements. Maintenance shall include, but is not be limited to, painting, structural repairs, and integrity of security and visual barrier measures. The USSEF must be properly maintained and be kept free from all hazards, including, but is not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the Town Fire Chief for emergency response. The operator shall be responsible for the cost of maintaining the USSEF and any access road.
- l) Modifications: Any material modifications to a USSEF made after issuance of the required permit shall require approval by the Selectmen.
- m) Deposit of funds necessary for the decommissioning of the USSEF in a trust account to be maintained and controlled by the Town. The amount deposited in said trust account shall be equal to 150% of the expected decommissioning cost and shall be paid to the Town as follows: The Applicant shall deposit 30% of the estimated decommissioning cost when the permit is issued, another 30% before the approved start-up and the balance payable in equal annual installments of 7.5% on each anniversary of the commencement of the operations of the USSEF for a period of 12 years.

The total cost of decommissioning estimate must be updated every three (3) years by a professional trained in estimating decommissioning procedures, with any increase to be deposited to the trust account.

The Applicant may apply to the Selectmen for release of the trust 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 Selectmen and CEO.

The Town shall have the ability to access the funds held in trust and the USSEF property for the purpose of decommissioning if the USSEF is abandoned or the applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Selectmen.

- n) Satisfaction with all aspects of capacity and plans submitted: The Selectmen must find that the applicant has the capacity to finance, safely operate and decommission the USSEF.

Section 8 Amendments:

This Ordinance may be amended by a simple majority vote of the legislative body of the Town of Cambridge in lawful session duly assembled.

Section 9 Severability:

To the extent that any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision shall be removed from the Ordinance and the balance of the Ordinance shall remain valid.

ENACTED AND ORDAINED into an Ordinance on March 4, 2023, by the Legislative body of the **Town of Cambridge** in lawful session duly assembled.

Selectmen of Town of Cambridge Certified:

Signature Michael R. Vates Date 3/4/2023

Signature [Signature] Date 3/4/2023

Signature _____ Date _____