

Maine Audubon: Provisions influenced by or adopted from Maine Audubon Sample Solar Ordinance.

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A PROPOSAL TO AMEND THE LOVELL ZONING ORDINANCE FOR PURPOSES OF REGULATING SOLAR ENERGY SYSTEMS

I. Authority

This Proposal to Amend the Lovell Zoning Ordinance for Purposes of Regulating Solar Energy Systems ("Proposal"), and the associated petition, are presented pursuant to section 11.1(D) of the Lovell Zoning Ordinance.

II. Purpose

The purpose of this Proposal is to amend the Lovell Zoning Ordinance in order to adequately and reasonably regulate the use of solar energy systems in Lovell. The Proposal intends to minimize the adverse impacts of such systems on surrounding land uses, balance the interests of the residents of the Lovell and the users and installers of solar energy systems, and protect the public health, safety, and welfare.

III. Effective Date

This Proposal shall take effect once enacted by the Town of Lovell Town Meeting, but notwithstanding the provisions of 1 M.R.S. § 302, shall be applicable as of December 28, 2021.

IV. Applicability

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Proposal, when enacted, shall govern any proposed Solar Energy System for which an application for approval has not been deemed complete by the Planning Board and has not been the subject of at least one substantive review meeting by the Planning Board prior to December 28, 2021, the Applicable Date of this Proposal.

V. PROPOSED AMENDMENT TO THE LOVELL ZONING ORDINANCE

This Proposal intends to make the following changes and amendments to the Lovell Zoning Ordinance:

AMEND Section 2.2 of the Ordinance to revise the following definitions:

Height, Building: The vertical distance measured between the mean original (prior to construction) grade of the ground at the downhill side of the building and the highest point of the roof, not including chimneys, spires, towers, **roof-mounted PSSES**, or similar accessory structures or appurtenances that have no floor area (see also section 6.4, Maximum Building Height).

AMEND Section 2.2 of the Ordinance to include the following definitions:

Kilowatt (kW): a unit for measuring power that is equivalent to 1,000 watts.

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Megawatt (MW): a unit for measuring power that is equivalent to one million watts, or 1,000 kilowatts.

Large Scale Solar Energy Systems (LSSSES): 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. Large Scale Solar Energy Systems may consist of one or more free-standing ground, or roof, or wall mounted solar collector devices or solar related equipment and other accessory structures and buildings including light reflectors, concentrators, inverters, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. LSSSES are Solar Energy Systems with a total panel area greater than 21,780 square feet (0.5 acres) on any one lot and less than ten (10) acres on any one lot.

Mounting: The manner in which a Solar Energy System is affixed to the ground, a wall, or a roof.

Personal Scale Solar Energy Systems – Major (PSSSES – Major): 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 on-site use. Personal Scale Solar Energy Systems-Major are accessory to the principal use on the parcel, consist of one or more freestanding ground, or roof, or wall mounted solar collector devices or solar related equipment, and are intended to primarily reduce on-site consumption of utility power or fuels. The sale and distribution of excess energy to a public utility for distribution shall be incidental to PSSSES-Major and shall not be its primary purpose. PSSSES-Major are Solar Energy Systems with a total panel area greater than 1200 square feet and less than 21,780 square feet (0.5 acres) on any one lot.

Personal Scale Solar Energy Systems – Minor (PSSSES – Minor): 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 primarily for on-site use. Personal Scale Solar Energy Systems-Minor are accessory to the principal use on the parcel, consist of one or more free-standing ground, or roof or wall mounted solar collector devices or solar related equipment, and are intended to primarily reduce on-site consumption of utility power or fuels. The sale and distribution of excess energy to a public utility for distribution shall be incidental to PSSSES-Minor and shall not be its primary purpose. PSSSES-Minor are Solar Energy Systems with a total panel area less than or equal to 1200 square feet on any one lot.

Solar Array: Multiple solar panels combined together to create one Solar Energy System.

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

Solar Energy System: An interconnected assembly of any equipment, products, or devices which use mechanical, physical, or chemical means to collect and convert solar energy into an alternative form of energy. A Solar Energy System includes Solar Energy Equipment and associated, newly-installed transmission lines. A Solar Energy System may be roof-mounted, ground-mounted, or wall-mounted, and may be any of the following sizes: PSSSES-Minor, PSSSES-Major, and LSSSES

Solar Panel: That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

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Solar Related Equipment: The parts and components of a Solar Energy System. These parts and components include: any solar photovoltaic cell, module, panel, or array; any solar hot air or water collector device panels; lines, pumps, batteries, mounting brackets, framing, foundations, or other similar components; and, other structures used for or intended to be used for collection of solar energy.

AMEND the Land Use Table in Section 6.2 of the Ordinance as follows:

Land Use	V	MR	R	R5	LC	CI	RP	SLR	SP	APO
Solar Energy Systems										
PSSES-Minor (Wall or Roof)	P	P	P	P	P	P	P	P	P	P
PSSES-Minor (Ground)	P	P	P	P	P	P	N	N	N	N
PSSES-Major (Wall or Roof)	P	P	P	P	P	P	P	P	P	P
PSSES-Major (Ground)	P	P	P	P	P	P	N	N	N	N
LSSSES	N	N	N	N	N	C	N	N	N	N ⁵

⁵ Notwithstanding any other provisions in this Ordinance related to the Aquifer Protection Overlay District, a wall, roof, or ground-mounted LSSSES shall be a conditional use in any Commercial Industrial District.

AMEND Article 8 (“Performance Standards, Specific Activities and Land Uses”) of the Ordinance to include a new section 8.24, entitled “Solar Energy Systems,” for purposes of regulating all solar energy systems in Lovell.

8.24. Solar Energy Systems.

A. Purpose. This section is designed and intended to regulate the development and installation of solar energy systems in the Town of Lovell. It is intended to balance the interests of the residents of the Town of Lovell and the users and installers of all solar energy systems by providing clear standards for the siting, design, construction, operation, monitoring, modification, and removal of such systems, and to address public safety. These standards are also intended:

1. To minimize the adverse impacts of solar energy systems on surrounding land use, including: visual impacts, environmental impacts, impacts to historically significant areas, health and safety impacts, and property value impacts;
2. To allow the Town to protect the public health, safety, and welfare;
3. To support the goals and policies of the Town’s Comprehensive Plan; and,

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4. To provide for the decommissioning and removal of solar panels and associated transmission lines which are no longer being used for energy generation and transmission purposes.

B. Permits Required

1. **LSSSES**. All new Large-Scale Solar Energy Systems (LSSSES) and associated solar equipment lines shall be a Conditional Use in any Commercial Industrial District. LSSSES shall not be a permitted use in any other District. A LSSSES must conform to the requirements of this section. The requirements of this section are in addition to the requirements for conditional use permits generally. To the extent that this section conflicts with other requirements for conditional use permits, the more restrictive requirements shall control. LSSSES are not permitted in any Resource Protection, Stream Protection, or Shoreland Limited Residential District.

2. **PSSSES**: All PSSSES shall be permitted as a use by right in all zoning districts and shall require a building permit from the Code Enforcement Officer, except that:

a. No ground-mounted PSSSES shall be constructed or installed in any Resource Protection, Stream Protection, Shoreland Limited Residential, or Aquifer Protection Overlay Districts.

b. PSSSES-Minor with an aggregate collection and/or focusing area of 100 square feet or less are exempt from this Ordinance except that minimum yard setbacks shall apply and shall be equivalent to the principal structure setback in the underlying zoning district for systems of 10 square feet or more.

c. PSSSES-Minor with an aggregate collection and/or focusing area of 100 square feet or less do not require a building permit.

3. All PSSSES and LSSSES shall conform to the requirements of this section and the other applicable provisions of this Ordinance. Whenever the requirements of this section are inconsistent with the requirements of this Ordinance, any other Ordinance, or code or statute, the more restrictive requirements shall apply.

4. This section shall implement the goals and policies of the comprehensive plan regarding preservation of natural features, landscape and scenic character. Within the areas designated as "Scenic Views" on Map #2 of the Lovell Comprehensive Plan all LSSSES and PSSSES shall be sited and designed to minimize their impact on the scenic resources of the town.

5. **Application Fee**

a. For any LSSSES, the application fee 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

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applicant shall deposit additional money to bring the account balance to \$7,500 within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system. In the event that the account balance is not brought up to \$7,500 within five (5) business days, the LSSES application shall be deemed automatically suspended.

b. For any PSSES-Major, the application fee shall be \$500.

c. Subject to the provisions of section 8.24(b)(2), subsection (c), the application fee shall be the standard building permit fee.

C. Personal Scale Solar Energy Systems – General

1. PSSES-Minor and PSSES-Major are accessory to the principal use on the parcel, consist of one or more ground, roof or wall-mounted systems, and are intended to primarily reduce on-site consumption of utility power or fuels and may be used to reduce the onsite consumption of utility power or fuels on immediately adjacent lots. The sale and/or distribution of excess energy to a public utility for distribution shall be incidental to any PSSES and shall not be its primary purpose.

2. PSSES constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing PSSES whether or not existing prior to the effective date of this Ordinance that materially alters the PSSES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a building permit.

D. Personal Scale Solar Energy Systems - Minor (PSSES-Minor)

1. PSSES-Minor are Solar Energy Systems with a total panel area less than or equal to 1200 square feet on any one lot. Subject to section 8.24(B)(2)(a), PSSES-Minor shall be permitted as a use by right in all zoning districts. No more than one PSSES-Minor shall be permitted on any one lot.

2. All PSSES-Minor shall be placed such that concentrated solar radiation or glare does not project anywhere off site.

3. No noise produced by any PSSES-Minor shall be 10 decibels (dB) greater than the preconstruction / existing background level, as measured from any other street or lot.

4. Roof and Wall-Mounted PSSES-Minor:

a. A roof-mounted or wall mounted PSSES-Minor may be located on a principal or accessory building.

b. The total height of a building with a PSSES-Minor shall not exceed the maximum building height specified for principal or accessory buildings within the underlying zoning district.

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c. Wall-mounted PSSES-Minor shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

d. Solar panels shall not extend beyond any portion of the roof or wall edges. For firefighter access, a minimum three (3) foot buffer zone is required from the ridge and one (1) edge of the roof or parapet.

e. Subject to the provisions of section 8.24(b)(2), subsection (c), any building permit issued for a PSSES-Minor shall be approved by the Code Enforcement Officer. Prior to approval, the Code Enforcement Officer, in consultation with the Fire Chief, shall determine that any roof or wall-mounted PSSES-Minor does not present any unreasonable safety risk to a structure, including but not limited to, weight load, wind resistance, and emergency ingress and egress.

5. Ground Mounted PSSES – Minor

a. Ground mounted PSSES-Minor shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

b. The height of ground mounted PSSES-Minor solar panels and related equipment and supports shall not exceed the height requirements of the underlying zoning district.

c. The minimum height of ground mounted PSSES-Minor solar panels shall be 4 feet.

d. Ground mounted PSSES-Minor shall not be placed within any legal easement or right-of-way location or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

E. **Personal Scale Solar Energy Systems - Major (PSSES-Major)**

1. PSSES-Major are Solar Energy Systems with a total panel area greater than 1200 square feet and less than 21,780 square feet (0.5 acres) on any one lot. No more than one PSSES-Major shall be permitted on any one lot.

2. PSSES-Major shall be permitted as a use by right in all zoning districts and shall require a building permit from the Code Enforcement Officer, except that ground-mounted PSSES-Major shall not be constructed or installed in any Resource Protection, Stream Protection, Shoreland Limited Residential, or Aquifer Protections Overlay Districts.

3. Upon completion of installation, the PSSES-Major shall be maintained in good working order. Failure of the operator or property owner to maintain the PSSES-Major in good working order is grounds for appropriate enforcement actions pursuant to Article X of this Ordinance. Enforcement may include orders for decommissioning and removal.

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4. All on-site, newly-installed utility, collector, or transmission lines connected to a PSSES-Major shall be placed underground.

5. The operator or landowner of a PSSES-Major shall provide, as part of the application filed with the Code Enforcement Officer, written confirmation that, if a connection is planned, the utility company to which the PSSES-Major will be connected has been informed of the customer's intent to install a grid connected system and that the utility company has approved, or conditionally approved of such connection. Off-grid systems shall be exempt from this requirement.

6. No portion of the PSSES-Major shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSSES-Major, provided they comply with the prevailing sign regulations.

7. All PSSES-Major shall be placed such that concentrated solar radiation or glare does not project anywhere off site.

8. No noise produced by any PSSES-Major shall be 10 decibels (dB) greater than the preconstruction / existing background level, as measured from any other street or lot.

9. The issuance of a permit under this Ordinance does not create in the property owner, its, his, her or their successors and assigns in title, or create in the property itself the right to remain free of shadows and/or obstructions to solar energy caused by development or growth of any trees or vegetation on other properties.

10. Permit Requirements

a. Zoning and/or building permit applications shall document compliance with this Ordinance and any applicable land use requirements not otherwise covered in this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the PSSES-Major is constructed.

b. The zoning and/or building permit(s) shall be void if the PSSES-Major, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the PSSES-Major not to be in conformity with this Ordinance.

c. A PSSES-Major must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. In the event of a violation of any of the foregoing provisions, the Code Enforcement Officer shall give written notice specifying the violation to the operator or landowner of the PSSES-Major which includes the required remedy.

11. Decommissioning

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a. Each PSES-Major and all solar related equipment shall be removed within 12 months of the date when the use has been discontinued, or abandoned, or upon termination of the useful life of same.

b. A PSES-Major shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of 6 continuous months. See Section 8.24(K) for additional decommissioning considerations.

12. PSES-Major – Roof and Wall Mounted.

a. A roof mounted or wall mounted PSES-Major may be located on a principal or accessory building.

b. The total height of a building with a PSES-Major shall not exceed the maximum building height specified for principal or accessory buildings within the underlying zoning district.

c. Wall mounted PSES-Major shall comply with the setbacks for principal and accessory structures for the underlying zoning districts in which a PSES-Major is located.

d. **Solar panels shall not extend beyond any portion of the roof or wall edges.** For firefighter access, a minimum three (3) foot buffer zone is required from the ridge and one (1) edge of the roof or parapet.

e. Any building permit issued for a PSES-Major shall be approved by the Code Enforcement Officer, in consultation with the Fire Chief. Prior to approval, the Code Enforcement Officer, in consultation with the Fire Chief, shall determine that any roof or wall-mounted PSES-Major does not present any unreasonable safety risk to a structure, **including but not limited to, weight load, wind resistance, and emergency ingress and egress.**

13. Personal Scale Solar Energy Systems - Major (PSES-Major) – Ground Mounted

a. The minimum yard setbacks shall comply with the setbacks for principal and accessory structures in the underlying zoning district.

b. The height of ground mounted PSES-Major solar panels and related equipment and supports shall not exceed the height requirements of the underlying zoning district in which a PSES-Major is located.

c. The minimum clearance height of ground mounted PSES-Major solar panels shall be 4 feet.

d. **Impervious Coverage.**

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i. The area beneath the ground mounted PSSSES-Major is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning district.

ii. The surface area of the arrays of a ground mounted PSSSES-Major, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located.

e. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the PSSSES-Major shall be locked to prevent unauthorized access or entry.

f. Ground-mounted PSSSES-Major shall not be placed within any legal easement or right-of-way location or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

F. Large Scale Solar Energy Systems (LSSSES)

1. LSSSES are Solar Energy Systems with a total panel area greater than 21,780 square feet (0.5 acres) on any one lot and less than ten (10) acres on any one lot. LSSSES shall be a conditional use in any Commercial Industrial District. LSSSES shall not be a permitted use in any other District. No Solar Energy System greater than 10 acres shall be permitted.

2. LSSSES permitted or constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing LSSSES, whether or not permitted or existing prior to the effective date of this Section, that materially alters the LSSSES and any new LSSSES or expansion of a LSSSES shall require a Conditional Use Permit from the Planning Board under this Ordinance. Routine maintenance or like-kind replacements do not require a building permit or Planning Board approval.

3. The LSSSES layout, design and installation and ongoing maintenance 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. The LSSSES layout, design and installation and ongoing maintenance shall also comply with all applicable federal, state, and local codes, including applicable building codes and other applicable fire and life safety requirements.

4. All on-site, newly-installed utility, collector, or transmission lines connected to a LSSSES, and all upgraded transmission lines, shall be placed underground. All new-installed utility, collector, or transmission lines, including all upgraded transmission lines, constructed for purposes of delivering energy produced by an LSSSES to a grid connection point or substation shall be placed underground.

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5. No portion of any LSSSES shall be visible from any lake or other Body of Water, including great ponds, rivers, and streams.

6. The LSSSES operator or, if no commercial operator, the landowner shall provide, as part of its application for a Conditional Use Permit, written confirmation from the public utility company to which the LSSSES will be connected stating that the company has been informed of the solar facility operator or land owner's intent to install a grid connected system and that it has approved, or conditionally approved of such connection.

7. No portion of the LSSSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the LSSSES, provided they comply with the prevailing sign regulations.

8. All LSSSES shall be placed such that concentrated solar radiation or glare does not project anywhere off site.

9. No noise produced by any LSSSES shall be 10 decibels (dB) greater than the preconstruction / existing background noise level, as measured from any abutting street or lot.

10. The LSSSES operator or, if no commercial operator, landowner shall ensure that dust control measures are implemented and maintained, including during construction and decommissioning of the LSSSES, such that dust emissions in the air do not travel beyond the property lines.

11. No trees, vegetation, or other landscaping, other than that provided for in the application or as a condition of approval of any plan, application, or permit, may be removed or altered for the installation or operation of a LSSSES. For any lot on which timber harvesting or related activities has occurred or is occurring, no conditional use permit application for a LSSSES shall be filed until one year after the end of any timber harvesting or related activities. Any lot owner conducting timber harvesting or related activities shall submit to the Code Enforcement officer the date on which any timber harvesting or related activities concluded.

12. Proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary. Unless waived by the Planning Board, any topsoil that must be removed shall be stored and stabilized on-site for future use, including for Decommissioning.

13. At no time will there be any use of herbicides or pesticides without the prior written approval of the Code Enforcement Officer.

14. No fuel or other hazardous material shall be stored on site, except materials associated with storage batteries. Storage batteries shall conform to Federal, State and local requirements.

15. The LSSSES operator or, if no commercial operator, landowner shall maintain a phone number and identify a person responsible for the public to contact throughout the life of the project. This information shall be provided to the Town of Lovell and to immediate abutters of the LSSSES.

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16. The issuance of a conditional use permit under this Ordinance does not create in the land-owner, its, his, her or their successors and assigns in title, or create in the property itself, the right to remain free of shadows and/or obstructions to solar energy caused by development or growth of any trees or vegetation on any other property.

17. Permit Requirements

a. The installation of LSSSES shall be in compliance with all applicable permit requirements, codes, and regulations and this Ordinance.

b. The LSSSES operator or, if no commercial operator, the landowner shall repair, maintain and replace the LSSSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the LSSSES in good repair and operating condition.

18. Required LSSSES Security Fencing

a. All equipment constituting a ground-mounted LSSSES, including, but not limited to, solar panels, inverters, battery storage facilities, buildings, structures, and all LSSSES Solar Equipment, excepting overhead power and communication lines, shall be completely enclosed by a minimum 8 foot high, black PVC coated (min. 22 mils.) bonded to the core wire chain link fence (min. wire 8 gauge) with top rail with eight (8) foot high, black PVC coated chain link locking gate(s). The entire perimeter of the bottom of the fence shall be elevated at least six (6) inches for small terrestrial animals to pass. This fence shall be the "Required LSSSES Security Fencing".

b. Clearly visible warning signs shall be placed at all pad-mounted transformers, inverters, and substations and on the Required LSSSES Security Fencing surrounding the LSSSES informing individuals of potential voltage hazards.

c. Access points through the Required LSSSES Security Fencing shall be locked to prevent unauthorized access or entry.

d. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the LSSSES shall be placed within the Required LSSSES Security Fencing (to the extent feasible) and locked to prevent unauthorized access or entry.

19. LSSSES Size, Lot Size and Lot Coverage

a. The maximum land area encompassed within the Required LSSSES Security Fencing shall be ten (10) acres.

b. The minimum lot size of a LSSSES shall meet the requirements of the underlying zoning district.

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c. The maximum lot coverage for LSSSES shall meet the requirements of the underlying zoning district.

d. Lot coverage for LSSSES shall be defined as the percentage of the lot covered by all buildings, driveways, parking areas, other areas where vegetation is removed, and all of the area enclosed within the Required LSSSES Security Fencing.

e. No more than one LSSSES shall be installed on a lot or any portion of a lot. LSSSES installed on contiguous lots shall not be connected, and no Required LSSSES Security Fencing shall extend beyond the perimeter of any one lot.

f. For purposes of calculating the maximum land area of 10 acres for a LSSSES, the acreage of a proposed LSSSES on a lot shall include both the acreage on the lot for which approval is sought, plus the acreage of any already-existing LSSSES on any contiguous lots.

g. Ground mounted LSSSES shall not exceed 15 feet in height.

20. **LSSSES Setbacks and Buffers**

a. The minimum yard setbacks shall be the greater of the principal structure setbacks in the zoning district, or of the minimum buffer requirements for LSSSES.

b. Buffers for LSSSES are land areas used to visibly separate LSSSES installations from adjacent properties through screening and distance.

c. A minimum 100-foot deep natural, undisturbed buffer shall be maintained along all exterior property lines.

d. The natural buffer shall include a minimum of 25 trees exceeding 2" in caliper at 4 feet above the ground in any 100-foot buffer length as measured at the property line. Where a buffer exceeds 100 feet in depth, the 25 trees standard may be met by including those trees within the first 200 feet of buffer depth.

e. Additional trees shall be provided where necessary to achieve the 25 trees standard. Such additional trees shall be of the same species as existing trees in the immediate area, shall be 1½" minimum caliper 4 feet up, and shall be placed to fill in the gaps. The applicant shall further demonstrate that the trees, when mature, will adequately provide a visual buffer to the LSSSES.

f. The buffer requirements shall not apply at project vehicular entrance(s), utility rights-of-way, and similar required openings.

g. The ground mounted LSSSES shall not be artificially lighted except to the extent required for safety or by applicable federal, state, or local authority.

21. **Impervious Cover**

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a. The area beneath the ground mounted LSSSES is considered pervious cover. However, use of impervious construction materials under the system shall be considered impervious for stormwater management purposes.

b. The surface area of the arrays of a ground mounted LSSSES, regardless of the mounted angle of any solar panels, shall be considered impervious for stormwater management purposes.

22. **Access**

a. Adequate access, parking, and circulation, as determined by the Planning Board in consultation with the Fire Chief, for service and emergency vehicles shall be provided.

b. At a minimum, a 20' wide all-weather access way must be provided from a public way into the site.

c. The first 50 feet of any access way(s) shall be paved with 3" minimum thickness bituminous concrete including appropriate turning radii areas at the entrance.

d. The access way(s) into, around and through the site, despite the lengths, shall otherwise meet the requirements of roads and driveways in section 7.10 this Ordinance.

G. LSSSES Conditional Use Permit Application Requirements

In addition to the requirements in this Section and the other applicable requirements in Article 7 and Article 9.9 of this Ordinance, the following information shall be submitted with an LSSSES Conditional Use Permit Application.

1. Evidence that the solar facility operator owns the subject land or has a satisfactory land purchase agreement or lease agreement for all the land associated with the LSSSES and, if lease, that the lease agreement remains in effect during the operation of the LSSSES.

2. Evidence of financial capacity to construct and operate a proposed LSSSES.

3. Substantive Stormwater management report and plans and details.

4. Erosion control narrative, plans, and details.

5. A study or report created for the Planning Board that identifies any endangered or protected species, flora and fauna on site or within one mile of the Required LSSSES Security Fencing.

6. **Evidence that the project as proposed has been presented to and reviewed by the following agencies:** the Maine Natural Areas Program, the Maine Department of Inland Fisheries

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and Wildlife, the Maine Historic Preservation Commission, the Maine Department of Transportation, the Maine Department of Agriculture, Conservation & Forestry, and the Maine Department of Environmental Protection. The applicant shall include the written responses from each of the above agencies in its application.

7. A written opinion detailing all required permits for the construction and operation of any proposed LSSSES.

8. For all required permits listed in the preceding sub-paragraph, an applicant shall submit with its conditional use application copies of all required permits issued by any and all local, state and federal agencies for both the construction and operation of any LSSSES, including any approvals required from other municipalities for uses within their jurisdiction. No LSSSES conditional use permit application shall be deemed complete until all required permits have been issued.

9. A scaled plan of the LSSSES showing:

- a. Changes to the landscape of the site.
- b. Grading, vegetation clearing and planting.
- c. All screening, lighting, structures, and arrays.
- d. Property line metes and bounds.
- e. All water related features onsite and in the vicinity of the Required LSSSES Security Fencing, including water courses and bodies, wetlands, flood hazard areas, and vernal pools.
- f. Location of all Required LSSSES Security Fencing and access roads.
- g. All existing tree lines, rock outcroppings, trails, roads, fences, buildings, structures, and foundations.
- h. Any and all existing above or below-ground utilities or transmission lines.
- i. Location of any deer wintering areas on site and within one mile of the Required LSSSES Security Fencing.

10. A Phase I Environmental Site Assessment report and a response narrative from the solar facility operator or landowner of the LSSSES on next steps, if any.

11. A table of required and provided zoning dimensional information (e.g. setbacks, lot coverage, height, etc.).

12. Documentation of all Solar Equipment to be used in constructing the LSSSES, including manufacturer's specifications and cut sheets.

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13. An explanation of any transmission or distribution lines access or upgrades required to be built as a result of the LSSSES, including, but not limited to, route starting and ending points, potential impacts to trees or vegetation, and rights of ways.
14. An explanation of any new or proposed upgrades to electrical substations that are related to the LSSSES including, but not limited to, location, screening, setbacks, and noise impacts.
15. Electrical diagram detailing the arrays installations, associated components, and electrical interconnection.
16. A description of the amount of energy to be produced by the LSSSES.
17. A complete list and status of other expected state and federal permits needed for construction and operation of the LSSSES.
18. A decommissioning plan meeting the requirements of this Ordinance.
19. Written confirmation from the public utility company to which the LSSSES will be connected noting that it has been informed of the solar facility operator or landowner's intent to install the proposed grid connected system and that it has conditionally approved of such connection.
20. A written manual or guide presented to the Fire Chief providing clear response information and instructions, including disconnection locations necessary for fire/emergency response.
21. A list of possible or intended dual uses of the property.
22. The Planning Board may waive any of the above submission requirements only when it finds that the required information is not necessary for making a determination.

H. LSSSES Performance Bond

1. A performance bond, of form and substance acceptable to the Municipal Officers of the Town of Lovell, shall be prepared and agreed and shall detail the conditions of the bond, the method for release of the entire bond or portions of the Town, and the procedure for the collection by the Town of Lovell. The bond documents shall specifically reference the subject LSSSES. The value of the performance bond shall be based on the value of construction as reasonably agreed by the Municipal Officers of the Town of Lovell.

2. The LSSSES operator or, if no commercial operator, the landowner shall notify the Code Enforcement Officer in writing if the performance bond is revoked within 30 days of the operator's receipt of notice of same. If the performance bond is revoked for any reason, the operator or landowner shall provide to the Code Enforcement Officer within 90 days a replacement bond that is reasonably acceptable to the Municipal Officers of the Town of Lovell. If an acceptable

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replacement bond is not provided within 90 days, any Conditional Use Permit approval(s) for the LSSES shall be void.

I. LSSES Certification and Recording

1. As Built Survey and Certification.

a. After completion of all LSSES construction and prior to operation of an energized LSSES, the solar facility operator or landowner shall have an As-Built survey prepared by a Maine licensed Professional Land Surveyor and submitted to the Code Enforcement Officer.

b. The As-Built survey shall include at least actual locations of any structures and their components, above and underground utilities, roads, swales, ditches, detention/retention facilities, Best Management Practices, grading, land and landscaping alterations, or other infrastructure and facilities after construction has been completed.

c. A letter from the Maine licensed Professional Land Surveyor or from a Maine licensed Professional Engineer, shall certify that the solar facility had been constructed in accordance with any Planning Board approvals, including any conditions of approval and any accompanying plans and specifications, or otherwise the letter shall note the significant differences.

d. The Town shall hire the licensed Professional Land Surveyor, or Professional Engineer, and the cost of these services shall be paid by an applicant's application fee.

2. Recording

a. If the Planning Board approves, or approves with conditions, a LSSES, the solar facility operator or landowner shall record in the Oxford County Registry of Deeds, a certificate (approved by the Code Enforcement Officer) indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that such approval was granted, including any conditions of approval, and the date on which the approval was granted. The approval(s) shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval.

J. Large Scale Solar Energy Systems (LSSES) - Operations

1. Operations and Maintenance Plan

a. The LSSES operator or, if no commercial operator, the landowner of the LSSES shall provide and maintain, upon Planning Board approval, an Operations and Maintenance plan which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

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b. The Operations and Maintenance plan shall be submitted to the Code Enforcement Officer and kept on file in his/her office.

2. Ground-mounted LSSSES shall not be placed within any legal easement or right-of-way location or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

3. Before the start of any construction, the solar facility operator shall provide a copy of a Spill Prevention and Control Plan, or similar document, to the Code Enforcement Officer.

4. Prior to activation of the LSSSES, the solar facility operator shall provide a written manual or guide to the Fire Chief and Code Enforcement Officer providing clear response information and instructions, including disconnection locations necessary for fire/emergency response.

5. **Reports**

a. LSSSES reports produced by the LSSSES operator or, if no commercial operator, the landowner for any public agencies, regulatory bodies, or power companies shall be simultaneously submitted to the Code Enforcement Officer.

b. The LSSSES operator or landowner shall produce an annual report on the status of the LSSSES operations, output, and maintenance, and shall submit the report to the Code Enforcement Officer by December 31 of each year.

c. Prior to operation of the LSSSES, the LSSSES operator or landowner shall have a letter report prepared by a Maine licensed Professional Engineer certifying that the LSSSES has been constructed in accordance with any Planning Board approval(s), including conditions of approval, if any, and any accompanying plans and specifications and/or other submitted and approved documentation.

6. Any change in the ownership of a LSSSES operator or any change in land ownership of the lot on which any LSSSES is located shall be reported to the Code Enforcement Officer, in writing, and kept in the CEO's file. At the time of any change in ownership of an LSSSES operator or lot owner, all new owners, whether persons or entities, shall be required to submit a new conditional use application and an updated Decommissioning Bond, in accordance with Section 8.24(K)(b).

K. LSSSES Decommissioning, Removal, and Bonding

In addition to any state laws related to the decommissioning of solar energy systems, the following provisions apply to LSSSES constructed in Lovell.

1. Any LSSSES shall be considered Decommissioned when:

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a. The LSSSES has reached the end of its useful life, sustained casualty loss, or other significant damage, is not repaired or used or has reached a point of obsolescence and, after at least six consecutive months after any of these or similar events, the LSSSES is declared Decommissioned by the Code Enforcement Officer; or,

b. The LSSSES fails to operate as designed for a period of six or more consecutive months and is declared Decommissioned by the Code Enforcement Officer; or,

c. If the actions described in subsection (a) or (b) have not yet occurred, the solar facility operator or landowner may submit a written notice to the Town of Lovell declaring a Decommissioning of the LSSSES, which notice shall provide a date of Decommissioning and state the status of the LSSSES until the proposed decommissioning date.

2. The Date of Decommissioning shall be the date so declared by the Code Enforcement Officer or so provided in writing by the LSSSES operator or, if no commercial operator, the landowner. The Code Enforcement Officer shall notify the solar facility operator or landowner by certified mail with signed receipt specifying, at a minimum, the Date of Decommissioning and that the LSSSES must be removed, and the site be restored to its condition prior to development within 365 days. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Select Board and Planning Board.

3. **Decommissioning Process and Requirements**

a. The LSSSES operator or, if no commercial operator, the landowner shall commission a Phase I Environmental Site Assessment prior to any land disturbance. Should contamination be encountered or suspected, a Phase II Environmental Site Assessment shall be conducted. All discovered and encountered hazardous materials shall be removed and disposed of in accordance with all local, state, and federal regulations.

b. The LSSSES operator or, if no commercial operator, the landowner shall be responsible for determining, applying for, and receiving all necessary Decommissioning permits from the Town and any state or federal agencies..

c. The LSSSES operator or, if no commercial operator, the landowner shall remove all LSSSES materials, including, but not limited to, all Solar Equipment, barriers, fencing, OH/UG electric wiring and conduits, foundations, auger screws, electrical equipment, panels, inverters, signage, buildings, concrete pads, batteries, transformers, and associated debris.

d. The LSSSES operator or, if no commercial operator, the landowner shall remove all graveled areas and access ways unless the solar facility operator or landowner requests in writing for such to stay in place.

e. The LSSSES operator or, if no commercial operator, the landowner shall remove all stormwater management and BMP's unless the solar facility operator or landowner requests in writing for such to stay in place.

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f. The LSSSES operator or, if no commercial operator, the landowner shall stabilize all disturbed areas as necessary to minimize erosion, including, but not limited to, spreading topsoil, and revegetating with natural grasses and trees (a minimum of 10 - 1½" caliper trees per acre) native to the immediate area. Trees shall have a 90% survival rate after 2 years or be replaced. Replacement trees shall start a new 2-year period.

4. **Decommissioning Bond**

a. Before issuance of any building permit for a LSSSES, the applicant or initial solar facility operator, or other entity approved by the Code Enforcement Officer, shall provide a Decommissioning Bond in form and substance approved by the Municipal Officers of the Town of Lovell and made payable to the Town of Lovell for all costs associated with the Decommissioning of the LSSSES.

b. **The initial value of the Decommissioning Bond shall be equal to 150 percent of the estimated cost of Decommissioning the LSSSES.** At the end of the fifth year of operation of the LSSSES and for each successive 5-year period that the LSSSES is in operation, the LSSSES operator or, if no commercial operator, the landowner shall be required to submit an updated cost estimate to the Code Enforcement Officer, which estimate shall be prepared by a third-party entity and shall be paid for by the LSSSES operator or landowner. The Municipal Officers of the Town of Lovell shall have the authority to reasonably accept or not accept the cost estimate value(s). Within 90 days of acceptance by the Municipal Officers of the Town of Lovell, the operator or landowner shall provide the Town of Lovell with a new Decommissioning Bond in the amount equal to 150 percent of the new estimate. The value of any Decommissioning Bond shall not include the net salvage value of any Solar Related Equipment or any utility, collector, or transmission lines.

c. Any Decommissioning Bond shall be of form and substance reasonably acceptable to the Municipal Officers of the Town of Lovell and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town of Lovell, and the procedure for the collection by the Town of Lovell. The bond documents shall specifically reference the subject LSSSES. The Decommissioning Bond shall include a provision granting and guaranteeing the Town of Lovell the authority to access the funds and property and perform the Decommissioning of the LSSSES if the solar facility operator or landowner fail to meet their obligations to fully and properly remove the LSSSES.

d. The LSSSES operator or, if no commercial operator, the landowner shall be responsible for notifying the Code Enforcement Officer in writing if the Decommissioning Bond is revoked or is no longer valid or in force within 30 days of the operator's receipt of notice of same. Within 90 days of such an event, the operator or landowner shall provide the Town of Lovell with a replacement Decommissioning Bond that is reasonably found acceptable by the Municipal Officers of the Town of Lovell. If an acceptable replacement bond is not provided within 90 days, any Conditional Use Permit approval(s) for the LSSSES shall be void.

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e. The Decommissioning Bond or replacement bond must be kept in effect throughout the lifetime of the LSSSES. The LSSSES operator or, if no commercial operator, the landowner may apply to the Municipal Officers of the Town of Lovell for the release of the Decommissioning Bond at such time that:

i. A Certification, prepared by a Maine licensed Professional Engineer experienced in such matters, is provided by the solar facility operator or landowner reporting that the LSSSES has been Decommissioned as required by this Ordinance and as required by any Town of Lovell approval or applicable conditions of approval, and

ii. All Decommissioning requirements and activities are found to be satisfactorily complete by the Code Enforcement Officer and the Municipal Officers of the Town of Lovell.

f. If the LSSSES operator or, if no commercial operator, the landowner fails to Decommission the LSSSES as required by this Ordinance and as required by any applicable conditions of approval, the Town of Lovell will use reasonable effort to notify the solar facility operator or landowner of its intent to use the Decommissioning Bond and use any and all legal or available means necessary to Decommission the LSSSES.

g. Any LSSSES Decommissioning costs exceeding the proceeds of the Decommissioning Bond and incurred by (and/or to be incurred by) the Town of Lovell shall be funded by the LSSSES operator or, if no commercial operator, the landowner within 30 days of such notice. Failing receipt of such funding, the Town of Lovell shall use any and all legal or available means necessary to recover the excess costs, and any costs of such recovery, which means may include imposing a Special tax and/or a tax lien on the real estate of the LSSSES.

5. **Waiver**

The Planning Board shall have the authority to waive any provision or requirement of this Solar Energy Systems Section of the Zoning Ordinance of the Town of Lovell, Maine should the Planning Board determine that any requested waiver is in the public interest, is consistent with the purpose and intent of this Section, and will not have a significant, adverse effect upon public safety and the environment. To consider and grant a waiver:

a. The applicant must submit a written waiver request to the Planning Board citing the relevant Ordinance provision and stating the relief sought and the reasons for the relief.

b. To be approved, the waiver request must receive a unanimous vote from the Planning Board.

c. The Planning Board shall include in its records a statement of the waiver request and the reasons or factual findings for the granting of any waiver.

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AMEND Section 9.9(D) of the Ordinance as follows:

18. For all LSSES, the applicant must demonstrate that the additional materials required by Section 8.24(F) and 8.24(G) have been satisfied.