

TOWN OF BURNHAM
UTILITY SCALE SOLAR ENERGY FACILITY ORDINANCE

ADOPTED: May 23, 2022

ENACTED: May 23, 2022

CERTIFIED BY: Stacy Patterson
SIGNATURE

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PRINT NAME

CLERK
TITLE



TOWN OF BURNHAM

UTILITY SCALE SOLAR ENERGY FACILITY ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to establish a municipal review procedure and siting standards for Utility Scale Solar Facilities (USSF's). These standards are intended to:

- a. Establish clear guidelines and standards to regulate utility scale solar energy facilities;
- b. Permit the Town to fairly and responsibly protect public health, safety and welfare;
- c. Support the development of utility scale solar energy facilities 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 MRSA, §3001 (Home Rule), and the provisions of Title 30-A §4312 et. seq. (Comprehensive Planning and Site Plan Review Regulation, or "Growth Management" Act).

Section 3. Applicability

- a. No Utility Scale Solar Energy Facility shall be located within the Town of Burnham without a Permit issued by the Town of Burnham Planning Board, unless specifically exempted from the permit requirements of this Ordinance. Any physical expansion, reconfiguration, or increase in the Rated Nameplate Capacity of an existing Solar Energy Facility shall also require approval from the same permitting authority as required for a new Utility Scale Solar Energy Facility under this Ordinance. Routine maintenance or replacements do not require a permit.
- b. Exemption. Solar Energy Facilities occupying 800 square feet or less are exempt from the requirements of this Ordinance, but must meet state electrical codes and permitting requirements, and applicable requirements of any other Ordinance of the Town of Burnham.

Section 6. Specific Application Requirements

An application for a USSF Permit must include the following:

- a. A permit / technical review fee to be set by the Board of Selectmen shall be payable at the time of application. This fee will be reviewed and amended as necessary on an annual basis.
- b. A description of the owner of the facility, the operator if different, and detail of qualifications and track record to run the USSF;
- c. 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 USSF and the life of the agreement;
- d. A description of the energy to be produced and to whom it will be sold;
- e. A copy of the agreement and schematic details of the connection arrangement with the transmission facility, clearly indicating which party is responsible for various requirements and how they will be operated and maintained;
- f. A description of the panels to be installed, including make and model, and associated major facility components;
- g. A construction plan and timeline, identifying known contractors, site control, and anticipated on-line date;
- h. A full official land survey of the proposed site. Must include any Rights of way and Easements on the property and be sealed and/or stamped by a Maine licensed professional surveyor.
- i. An operations and maintenance plan, including site control and the projected operating life of the facility;
- j. An emergency management plan for all anticipated hazards;
- k. Proof of financial capacity to construct and operate the proposed USSF; and
- l. A Visual Impact Assessment

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

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. 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.

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 the following elements:

the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization. This cost estimate must be updated every three (3) years.

- iv. Demonstration in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the USSF the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the USSF 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 Planning Board.
- v. Transfer of ownership. Upon a transfer of ownership of a solar energy development subject to a decommissioning plan approved under this ordinance, a person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator.

Section 7. Standards for Approval

The following standards must be met for a USSF to be approved for development:

- a) Legal Responsibilities: The Applicant must provide proof of authorization to construct, use, and maintain the property and any access drive for the life of the USSF and including the decommissioning of the USSF. The roles and responsibilities of the facility owner, operator, landowner and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected.
- b) Setbacks: Structures (including fencing) that are part of a USSF shall be setback a minimum of **100 feet** from any existing residential dwelling structure.
- c) Height: The USSF shall be no more than 15 feet high at its tallest point of any equipment.
- d) Utility Notification: No USSF shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the local utility to accept the power.
- e) Fencing: The Planning Board shall require that a USSF be enclosed by fencing to prevent unauthorized access and may also require landscaping to avoid adverse aesthetic impacts of installed fencing to adjacent properties.
- f) Signage: Signage shall be required to identify the owner of the USSF and provide a 24-hour emergency contact phone number. This signage shall not be used for advertising except for reasonable identification of the manufacturer or operator of the USSF. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the USSF, informing individuals of potential voltage hazards, including stating the output of power (AC or DC).
Signage indicating the official e911 address of the Facility shall also be required to clearly be visible, from both directions of travel, from the public road or roads from which the USSF is accessed.