

SOLAR ENERGY CONVERSION SYSTEMS ORDINANCE TOWN OF ALNA
Effective March __, 2024

SECTION 1: Purpose and Intent

The purpose of this ordinance is to facilitate the effective and efficient use of solar energy conversion systems while protecting the natural, scenic and agricultural resources of Alna. The intent is to maintain the natural systems of the site, to encourage the development of solar energy systems, and to protect the public health, safety and welfare of Alna citizens.

SECTION 2: Authority and Administration; Enforcement

- A. Authority.** This Ordinance is adopted pursuant to and consistent with Article VIII, Part Second, of the Maine Constitution; 30-A M.R.S.A § 3001 *et seq.* and any other enabling statutes. This Ordinance constitutes and may be known and cited as the “Alna Solar Ordinance.”
- B. Administration.** The Planning Board (the “Board”) and the Code Enforcement Officer (“CEO”) of the Town are responsible for administering this Ordinance. The Board has the duty and authority to review and approve, conditionally approve, or deny any application for solar energy conversion systems or expansion of any existing solar energy conversion systems.
- C. Review Fee.** If the Board determines that an application filed pursuant to this Ordinance, by virtue of its size, uniqueness, complexity, or other factors, is likely to require a disproportionate share of Town resources to review, the Board may assess on the applicant a review fee in addition to any application fees established by the municipal officers. The Board may make such determination at any time during its review of the application or during the five year review of the performance guarantee. The review fee may not exceed the actual costs associated with reviewing the application, including but not limited to evaluating expert opinions, advice, or testimony during the course of reviewing an application, or evaluating the adequacy of the decommissioning or reclamation plans and financial assurance. The review fee may include the actual fees and costs to the Town of (i) legal notices, mailings, postage, or document reproductions; (ii) administering public hearings and meetings; (iii) attorneys’ fees; (iv) third-party consulting fees, including for professional reviews of the application and the record by engineers, surveyors, planners, geologists, hydrogeologists, or other experts; and (v) consulting fees assessed by any state or federal reviewing agencies. Prior to assessing a review fee, the Board will use due

diligence to obtain and utilize available free services from governmental or non-profit sources. Should the Board be unable to obtain or timely utilize such free services, or determine that different or supplemental services are necessary or advisable, the Board may assess a review fee.

The Board shall notify the applicant of the estimated review fee, as well as the name, contact information, qualifications, and purpose of any third-party consultants or experts retained by the Board. The applicant shall pay the estimated review fee to the Town within 14 days of receipt of the notification. If the estimated review fee is depleted prior to completion of the Board's review, the Board may provide the applicant with a revised estimate of the review fee from time to time, and the applicant shall pay the revised estimate, less any prior estimate already paid, to the Town within 14 days of receipt of the notification. The Town shall deposit the review fee into an escrow account and may draw on the account to pay for the actual costs associated with the application review. After the Board renders its final decision, the Town shall provide the applicant with an accounting of the actual costs of reviewing the application and shall return any unspent portion of the review fee to the applicant within 30 days.

The municipal officers, in their sole discretion, may refund, reduce, or waive any review fee assessed under this section when the person requesting the refund, reduction, or waiver demonstrates to the satisfaction of the municipal officers that an extreme hardship or injustice would result from payment of the fee.

- D. Effective Date.** The effective date of this Ordinance or any amendments thereto is the date of its adoption by the legislative body of the Town.
- E. Date of Applicability.** Notwithstanding 1 M.R.S.A. § 302, or any other law to the contrary, and regardless of the effective date, this Ordinance applies retroactively to all applications and proceedings that were or are pending before the Board on or any time after July 5, 2023.
- F. Enforcement.** Any violation of this Ordinance is deemed to be a nuisance. The CEO is responsible for enforcing the provisions of this Ordinance and the terms and conditions of any permit or approval issued under this Ordinance. Any person who violates any term or condition of a permit or approval or who violates or continues to violate any provision of this Ordinance after receiving notice of such violation is subject to such fines, penalties, actions, and orders as are authorized by 30-A M.R.S.A. § 4452. A fine or penalty may be imposed for each violation. Each day that a violation continues constitutes a separate offense.

SECTION 3: Conflicts with Other Ordinances

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

SECTION 4: Severability

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

SECTION 5: Applicability

- A. **Permit Required.** This Ordinance shall apply to all solar energy conversion systems, and any expansions of solar energy conversion systems, except as exempted in subsection B below. No construction or operation of a solar energy conversion system may commence until an application pursuant to this Ordinance has been submitted to and reviewed and approved in writing by the Board.
- B. **Exempt Activities.** Roof-mounted arrays of any size and ground-mounted arrays producing 20 or fewer kW are not subject to review under this ordinance if both the CEO and the Alna Fire Chief or their designees determine in writing that the system is in compliance with the National Electric Code and does not present an unreasonable safety risk considering, but not limited to: (i) Weight load; (ii) Wind resistance; (iii) Ingress or egress in the event of fire or other emergency; or (iv) Proximity of a ground-mounted system relative to buildings.
- C. **Nonconforming Solar Energy Conversion Systems.** A legally existing nonconforming solar energy conversion system may continue to operate, but only in strict compliance with the following requirements:
 - 1. Legally Existing Nonconforming Use. A solar energy conversion system is a legally existing nonconforming solar energy conversion system if the system existed lawfully prior to the enactment of this Ordinance or was constructed within two years following the date of applicability listed in Section 2(E) of this Ordinance pursuant to and in accordance with final permits issued prior to the date of applicability listed in Section 2(E) of this Ordinance.
 - 2. Expansion of Nonconforming Systems. The expansion of a legally existing, nonconforming solar energy conversion system is prohibited unless the system, together with any proposed expansion of the system, complies with the requirements of this Ordinance. No such expanded system may commence

operation until an application pursuant to this Ordinance has been submitted to and reviewed and approved by the Board.

3. Resumption Prohibited. If a nonconforming solar energy conversion system is abandoned or discontinued for any reason for a period of 12 or more consecutive months, any resumed operation must comply with the requirements of this Ordinance in all respects. A solar energy conversion system is considered abandoned if it ceases to generate electricity on a commercial basis for a consecutive period of 12 months. A nonconforming solar energy conversion system may not be changed to another nonconforming use.

SECTION 6: Application Submission Requirements

Any application for a permit required under this Ordinance must be submitted in writing to the Town Clerk and must be signed and dated by the applicant. Unless modified or waived by the Board, an application for a solar energy conversion system shall contain, at minimum, the information set forth below. The Board may modify or waive any applicable submission requirement when the Board determines that such modification or waiver (1) is not necessary for the Board to evaluate the application against the standards in Sections 7, 8, 9 and 10; (2) will not adversely affect the general health, safety, or welfare of the Town; and (3) is not contrary to the purposes of this Ordinance.

- A. A narrative description of the project including its purpose and need, and the scope, extent, and expected lifetime of the project.
- B. Name, address, email address, and telephone number of the applicant, and the name, address, email address, and telephone number of the owner of the property, if different from the applicant.
- C. An application fee, as established by the municipal officers, and any review fee assessed by the Board pursuant to Section 2.C.
- D. Evidence that the applicant holds right, title or interest in the property, including a copy of the deed(s) of the property together with copies of all covenants, deed restrictions, easements, rights of way, or other encumbrances, including but not limited to liens and mortgages currently affecting the property.
- E. A site plan, drawn to scale, including at minimum:
 1. The date the plan was prepared with the name, address, email address, and telephone number of the person or company that prepared it.

2. A scale of no more than 100 feet or less than 40 feet per inch. All dimensions must be marked in feet or decimals of a foot, and north arrow shown.
3. Contour lines showing elevations in relation to mean sea level as established by the most recent dated National Geodetic Vertical Datum (NGVD) at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled. Contour intervals shall be a maximum of 5 feet.
4. A current boundary survey of the property by a licensed surveyor showing lot lines of abutting lots within 1,000 feet as illustrated on the Town of Alna Tax Assessor's Maps and total acreage of the property, and the Town of Alna Tax Assessor's map and lot number(s) and names of all property owners within 1,000 feet of any line of the property, as determined by the Alna Tax Records.
5. Locations of any previously approved and proposed solar energy conversion systems on the property.
6. A list and depiction of the approximate location of residences on properties within 2,000 feet of the property lines.
7. Location and identification of existing roads and easements on or abutting the property and designation of any roads which may be for seasonal use only.
8. Location of proposed access roads to the solar energy conversion system from public roads.
9. Location of all applicable setbacks, buffers, and conservation areas, and protected natural resources including great ponds, rivers, streams, brooks, wetlands, vernal pools, deer yards, inland waterfowl and wading bird habitat, prime farmland, and farmland of statewide significance.
10. Location and layout of proposed parking, loading, driving, and maneuvering areas.
11. Location of existing and proposed utilities and easements, such as sanitary sewage, water supply, and electricity on the property, and any new or expanded transmission and distribution lines on or off the property that may require an expanded utility corridor.
12. Location, intensity, type, size and direction of all outdoor lighting.

13. Location, type and size of any existing or proposed permanent outdoor fixtures such as signs, fences, gates, utility poles, berms, hedges, and tree lines.
 14. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc. If any portion of the solar energy conversion system is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood zone shall be delineated on the plan.
 15. Location of all existing wells on the affected property and within 200 feet of the property line.
 16. Location of both temporary and permanent proposed hazardous material storage areas including but not limited to fuel storage and handling, and wash down areas.
 17. All places within 1 mile listed on the Maine Historic Preservation Commission's Cultural & Architectural Resource Management Archive (CARMA) Map Viewer or the National Register of Historic Places.
- F. Name, address, email address, and telephone number of the proposed manager of operations.
- G. A traffic impact narrative and an estimate of the average daily traffic during initial construction and periods of operation and time of year projected to be generated by the activity.
- H. A narrative description by a Licensed Professional Engineer or Certified Geologist of the surface and groundwater impacts, including protection plans, storm water control plan, the identification of any significant mapped aquifers, and documentation of the seasonal high groundwater table. The objective is for the applicant to provide a holistic description of the combined impacts of site operations on the wetland, surface, and groundwater resources resulting from site operations. The narrative should describe the projected impacts both spatially and temporally over the anticipated life of the operation.
- I. Information and a map showing soil types and conditions from a government agency or a field survey by a trained and experienced professional sufficient to determine whether the site is located on Prime Farmland or Farmland of Statewide Significance.
- J. A soil erosion and sediment control plan, prepared in accordance with the standards contained in the latest revision of the Maine Department of Environmental Protection's Erosion and Sediment Control Manuals.

- K. An Operations, Maintenance and Decommissioning Plan, providing:
1. description of the regular operation and maintenance of the facility, including the frequency and scope of regular inspections and the frequency and method of vegetation management,
 2. the timeline and process of decommissioning of the system, and
 3. a licensed professional engineer's estimate for the cost of decommissioning of the system.
- L. A reclamation plan showing the final grades and re-vegetation plan, and phasing of the plan if proposed.
- M. A narrative description of the impact on wildlife and habitats, and the identification of any federal or state listed rare, threatened, or endangered forms of animal or plant life, Deer Yards or other Significant Wildlife Habitat designated by the Maine Department of Inland Fisheries and Wildlife, or identified by the Maine Natural Areas Program or an on-site wildlife and habitat survey, including any proposed mitigation.
- N. A narrative description of the present use of the parcel and property within 2000 feet of the proposed operation.
- O. Expected longevity of the operation, including phasing.
- P. Proof of technical and financial capacity, including but not limited to: (i) a written statement identifying the consultants and contractors involved in designing and constructing the operation and the long-term operators or managers of the operation, and their respective expertise and experience with constructing, operating, decommissioning, and reclaiming comparable projects; (ii) a written statement from the lender or financing partner identifying the estimated project cost and the basis therefor, and confirming that the developer has funds to cover those costs; (iii) certificates of insurance evidencing compliance with Section 11(D); and (iv) performance guarantees as specified in Section 11(A), payable to the Town, in an amount estimated by the Board as sufficient to cover the cost of proposed decommissioning and reclamation, potential pollution or damage avoidance, minimization, or mitigation, erosion control, or other site improvements required by the Board.
- Q. Plan for screening the system from view from adjacent properties any public or private roads.

- R. All submissions made to and permits or approvals received from any federal or state agencies concerning the property.
- S. A hydrogeologic study by a certified hydrogeologist to evaluate the effects of the proposed activity on groundwater movement and quality within the general area if required by the Board.
- T. Any other information the Board may require, in its discretion, to evaluate compliance with the standards in Sections 7, 8, 9 and 10.
- U. System specifications, including manufacturer, model, and facility size.
- V. Certification that layout, design and installation conform to and comply with all applicable industry standards such as the National Electrical Code (NEC/NFPA-70), the American National Standards Institute (ANSI), the Underwriter's Laboratories (UL), the American Society for Testing and Materials (ASTM), the Institute of Electric and Electronic Engineers (IEEE), the Solar Rating and Certification Corporation (SRCC), the Electrical Testing Laboratory (ETL), and other similar certifying organizations, the Maine Uniform Building and Energy Code (MUBEC), fire and life-safety codes (NFPA 1 and NFPA101), and any other standards applicable to solar energy conversion systems.
- W. Certification that the project complies with the utility notification requirements contained in Maine law and accompanying regulations through the Maine Public Utility Commission, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid.
- X. An Emergency Action Plan approved by the Alna Fire Chief or designee. The solar energy conversion system owner or project proponent shall provide a copy of the site plan to the Fire Chief for review and comment. The Fire Chief shall base any recommendation for approval or denial of the application upon review of the fire safety of the proposed system.
- Y. A visual impact assessment prepared by a landscape architect or other professional with expertise in evaluating visual impacts, which identifies the visual impacts of the proposed solar energy facility on any high-value public resources within a one-mile radius of the disturbed area and on abutting properties. At minimum, the assessment must include (i) a line-of-sight profile analysis that illustrates what is visible and what is obstructed along a straight line running from the system and each high-value public resource, and (ii) tree line elevation of vegetation within 100 feet of the system that illustrates what portions of the system will be visible from abutting properties. The Board may require additional visual impact assessments, including digital viewshed maps and photosimulations, if it determines

in its discretion that such assessments are necessary for the Board to evaluate the system's compliance with the visual impact standard in Section 9.E.

SECTION 7: Dimensional Standards

- A. Height.** Ground-mounted Solar Energy Conversion Systems must not exceed 35 feet in height.
- B. Setbacks.** Solar Energy Conversion Systems shall be set back at least 100 feet from the property lines plus ten (10) feet for each 100,000 square feet or fraction thereof of array collector surface area.
- C. Size:** The array area shall not exceed 20 acres.

SECTION 8: Siting and Impact Standards

- A. The project shall not have any unreasonable adverse impact on wildlife, wildlife habitat, surface water, or groundwater resources.
- B. Solar energy conversion systems shall be sited to minimize or negate any solar glare onto nearby properties or roadways without unduly affecting the functionality or efficiency of the solar energy conversion system. Installations shall not obstruct solar access to neighboring properties and shall be a nonreflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruptions.
- C. Preference should be given to locating the system on previously developed, degraded, or marginally productive portions of the property.
- D. No topsoil shall be removed from the site for the installation of the system, except as necessary for access or to comply with this section or other applicable laws.
- E. No solar energy conversion system may be located on Prime Farmland or Farmland of Statewide Importance as defined by the USDA Natural Resources Conservation Service.
- F. Arrays covering permanent parking lots and other hardscape areas approved by the Board are encouraged in order to limit the amount of stormwater flow.
- G. Prior to the start of construction, the owner or operator of the solar energy conversion system must provide a performance guarantee to the Town, in accordance with an approved decommissioning plan and Section 11, for all costs associated with system decommissioning and reclamation, potential pollution or damage avoidance, minimization,

or mitigation measures, erosion control, or other site improvements required by this Ordinance or the Board.

- H. Adequate Technical and Financial Capacity. The applicant must have adequate technical and financial capacity to develop, operate, and decommission the system in compliance with all applicable review standards. Proof of financial capacity must include demonstration of current and future financial capacity, which must be unaffected by the owner's or operator's future financial condition, to fully fund decommissioning in accordance with this Ordinance.

SECTION 9: Design Standards

- A. All exterior lighting shall be designed to minimize adverse impacts on neighboring properties and dark skies. If lighting is provided on-site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.
- B. Signage shall provide identification and contact information of the owner and/or operator and provide safety or warning messages to the public at the array site and at access road entrances. No other signs or advertising are allowed.
- C. The ground facility shall be fenced with agricultural style fencing. Fencing shall be elevated a minimum of six (6) inches to allow for passage of small terrestrial animals and shall have no projections on top that could injure wildlife.
- D. Solar energy conversion systems shall maintain a firebreak mowed area of ten (10) feet outside the perimeter fence of the solar array installation.
- E. Visual Impact: The system shall be located, designed, and constructed to avoid undue adverse visual impacts on abutting properties and high-value public resources by preserving and planting native vegetation, screening the system from view from abutting properties and public roads, or using other measures.
- F. The boundaries of any array that border any road or any abutting residential dwelling lot shall consist of a 30-foot vegetated buffer along that border in addition to any fence that may be erected. Existing vegetation should be used to satisfy these planting requirements where possible. No vegetation or fence shall interfere with a required clear sight triangle at a driveway or intersection. Berms with vegetation are encouraged as a component of any buffer, and the Board may allow up to 15% reduction in the required buffer width with a berm.

- G. Vegetation Management Plan. A vegetation management plan must be submitted and complied with. The plan must indicate that the vegetation growth will be maintained under and around the installation at levels needed to reduce the risk of ignition from the electrical system while minimizing mowing, including by utilizing livestock grazing, to the extent practicable. Native, pollinator-friendly seed mixtures shall be used. Herbicide and pesticide application is prohibited. The plan shall be provided to the Alna Fire Chief or designee, and the Board shall consider any review comments submitted by the Alna Fire Chief in determining whether this standard is met.

SECTION 10: Additional Standards

- A. All solar energy conversion systems shall be installed in compliance with the photovoltaic systems standards of the National Fire Protection Association (NFPA1, 2024 edition).
- B. All wiring shall be installed in compliance with the photovoltaic systems standards of the National Electric Code (NFPA70, 2023 edition).
- C. Before operation, electrical connections shall be inspected and approved by the State Electrical Inspector.
- D. Approval under this article is conditional on compliance with all other provisions of the Maine Plumbing and Electrical Codes, Natural Resources Protection Act, Site Law, Stormwater Management Law, or other applicable regulations and requirements of the local utility if an array is to be connected to any public electric grid.
- E. All arrays shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the project site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.
- F. All on-site electrical wires or piping associated with the system shall be installed underground except for “tie-ins” from above-ground mounted installations and to public utility company transmission poles, towers and/or lines. This standard may be waived by the Board if the project terrain is determined to be unsuitable for underground installation.
- G. Any point of potential contact of people or animals with generated electric current must be secured.
- H. If electric storage batteries are included as part of any array system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code

when the system is in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the State of Maine and any other applicable laws and regulations relating to solid, special, or hazardous waste disposal.

SECTION 11: GENERAL PROVISIONS

A. Performance Guarantee. Whenever one or more performance guarantees are required by this Ordinance or as a condition of approval of a permit issued by the Board pursuant to this Ordinance the following requirements apply:

1. Review; Delegation. The performance guarantee must be satisfactory to the Board as to scope, amount, form, sufficiency, manner of execution, and surety. The Board may delegate to the Town Attorney the review and acceptance of any performance guarantee in accordance with this Section 11(A).
2. Form. The performance guarantee must be in the form of a performance bond, a certified check payable to the Town, an escrow account, an irrevocable letter of credit, or some other form of guarantee that is acceptable to the Board.
3. Scope; Amount. The performance guarantee must be of an amount sufficient to faithfully perform and discharge all obligations imposed by this Ordinance and the permit approval, including without limitation the full cost of all required site improvements, reclamation of disturbed land, and decommissioning of any facilities or improvements associated with the permit approval, as determined by the Board. Separate performance guarantees may be required by the Board for any required site improvements, reclamation work, and decommissioning work. For reclamation and decommissioning work associated with a solar energy conversion system, the permit holder must arrange for the cost to be recalculated by a Maine-licensed engineer every five years, and the amount of the performance guarantee may be adjusted by the Board if the recalculated cost of reclamation or decommissioning materially changes. The performance guarantee must be callable by the municipal officers of the Town.
4. Schedule. The performance guarantee must contain (i) a schedule and cost estimates for each major phase of required site improvements, reclamation work, or decommissioning work, taking into account inflation; (ii) a basis for estimating costs; (iii) provision for the release of part or all of the performance guarantee to the permit holder; and (iv) one or more dates after which the permit holder will be in default, and the Town must have access to the guaranteed funds to complete required site improvements, reclamation work, or decommissioning work. The

Board may approve phased performance guarantees when activity is approved in separate and distinct phases.

5. Effective Date. The performance guarantee shall be effective throughout the term of the permit as well as the time required to complete all reclamation or decommissioning obligations, and shall be conditioned that in the event that the permit holder or any successors and assigns fail to comply with any applicable requirements of this Ordinance or any permit approval, the Town shall recover all damages suffered by the Town as a result thereof. In addition, a period not to exceed one year, or such other period as the Board may determine appropriate, from the date of permit approval must be set forth in the performance guarantee as the time within which any required site improvements must be completed.
6. Continuing Obligation. The performance guarantee shall be a continuing obligation of the permit approval, and thereafter until the permit holder has satisfied all of its obligations that may have arisen from the applicable provisions of this Ordinance or the permit approval.
7. Annual Reporting. The permit holder shall provide evidence of the existence of any performance guarantee required by this Section 11 by submitting to the Board or its designee copies such performance guarantee on each anniversary of the permit approval.

B. Amendments to Approved Operations: Prior to making any change or revision to a solar energy conversion system that has been approved by the Board, the permit holder must submit an amendment application to the Board. The amendment application is subject to the review procedures, submission requirements, standards, and other provisions of this Ordinance as apply to a new application.

C. Permit Expiration: The system must achieve commercial operation within two years of approval by the Board or such other period as the Board may determine appropriate. The permit shall expire two years from the date of issuance if commercial operation is not achieved during that period.

D. Liability Insurance: The property owner and operator shall each carry the following insurance, with an insurer authorized to transact insurance business in the State of Maine, until completion of decommissioning:

1. General liability insurance in an amount not less than \$2,000,000 on a per occurrence basis and not less than \$5,000,000 in umbrella form.

2. Workers' Compensation insurance in amounts required by applicable law.

The Board may require higher limits if required by the size of the project and the potential risk.

The permit holder shall provide evidence of the existence of each type of insurance by providing the Board with a certificate of insurance on each anniversary of any permit approval granted under this Ordinance.

- E. **No Evidence of Road Acceptance.** Approval by the Board of a solar energy conversion system shall not be deemed to constitute or be evidence of any acceptance by the Town of Alna, Maine of any road or easement shown on the plan and a note to that effect shall be on the final plan(s).

SECTION 12: Removal and Decommissioning Requirements

Any solar energy conversion system which has reached the end of its useful life or has been abandoned consistent with this Section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations and complete removal, reclamation and decommissioning within 12 months of the facility ceasing to commercially operate. The owner or operator shall notify the Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- A. Physical removal of all solar energy conversion systems, structures, equipment, security barriers and transmission lines from the site, consistent with the definition of "decommissioning" in 35-A M.R.S.A. § 3491(1).
- B. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- C. Stabilization of the site to minimize erosion. The Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption of extant vegetation.
- D. Re-vegetation. Native, pollinator-friendly seed mixtures shall be used.

SECTION 13: Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy conversion system shall be deemed abandoned by the Board

when it fails to operate for more than one year without the written consent of the Board. If the owner or operator of the solar energy conversion system fails to remove the installation in accordance with the requirements of Section 12 within 150 days of abandonment or the proposed date of decommissioning, the municipal officers of the Town may, but are not required to, cause their designee or agent to enter and remove an abandoned, hazardous, or decommissioned solar energy conversion system. As a condition of approval, the applicant and landowner must agree to allow such entry and removal of an abandoned or decommissioned installation. Nothing in this section abrogates or derogates the municipal officers' authority to pursue any other legal remedies available to the Town with respect to an abandoned or decommissioned installation, including but not limited to taking enforcement action pursuant to Section 2.F and calling or enforcing any performance guarantees issued hereunder.

SECTION 14: Imposition of Conditions

In granting approval for a solar energy conversion system, the Board may impose reasonable conditions, including but not limited to: requiring the permit holder to pay for the cleaning, repair, and resurfacing of roads used as part of any operation that may be or have been adversely affected by such operation; limiting the hours of construction; requiring the permit holder to secure one or more performance guarantees in accordance with Section 11 above; and establishing a specific schedule for decommissioning and reclamation.

SECTION 15: Application Process

- A. Application Submission Requirements.** Unless otherwise directed by the Board, the applicant must submit 10 paper copies and one digital copy of the application containing all submission requirements.
- B. Notices.** The applicant must send the following notices by certified mail, return receipt requested, in form acceptable to the Board, to the owners of property located within 2,000 feet of the boundary of the lot affected by the application and to the Town Clerk.
1. Notice of application. The notice must contain a general description of the proposal and a sketch plan, and notice that a copy of the application may be inspected at the Town Office during regular office hours. This notice must be sent within 5 days of filing the application.
 2. Notice of Public Hearing. The notice must contain the date, time and location of any public meeting or public hearing by the Board. The notice must be sent at least 30 days before the date of the public meeting or public hearing at which the application will be considered by the Board.

Evidence of notification by certified mail, return receipt requested must be submitted to the Board. For purposes of this section, “owners of property” are the persons listed in the most recent version of the Town of Alna Real Estate Tax Commitment Book, prepared by the Tax Assessor and available at the Town Office.

- C. Completeness for Review.** The Board must determine whether the application is complete for review. If the application is found incomplete, the Board must notify the applicant and direct the applicant to submit any omitted or incomplete information within a specified period of time. If the omitted or incomplete information has not been submitted by then, the Board may return the application as incomplete and conclude its review. If the application is found complete for review, the Board must begin its full evaluation of the proposal.
- D. Public Hearing.** After finding an application complete for review, the Board may hold a public hearing on any proposed solar energy conversion system. In deciding whether to hold a public hearing the Board must consider, among other factors, whether the application presents matters or issues of substantial controversy or public importance, or whether a public hearing would likely reveal new information relevant to the Board’s review. If no public hearing is held, the application shall be placed on the agenda of the Board’s next regularly scheduled meeting for review. If a public hearing is to be held, the Town shall publish the time, date, and place of the hearing at least 30 days prior to the hearing in a newspaper of area-wide circulation.
- E. Site Visits.** The Board shall conduct a site visit. At any time during its review, the Board may request that the applicant arrange for one or more site visits with the Board and the public. The Board shall provide notice of the site visit to the public by email to the Town email list, by posting in the usual places, and in a newspaper of area-wide circulation at least 7 days prior to the site visit.
- F. Supplemental Information.** At any time during its review, the Board may (i) accept, in its discretion, supplemental information or proposed modifications to the application which the applicant requests to submit, and (ii) request additional information from the applicant.
- G. Written Decision.** The Board must issue a written decision to approve, approve with conditions, or deny any application found complete for review.
- H. Burden of Proof.** The applicant has the burden of proving, by demonstrable evidence, that a proposal complies with all applicable requirements of this Ordinance.

SECTION 16: Definitions

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

When a particular agency or organization is referenced, it shall include any successor agency or organization responsible for the same matters.

ARRAY: The solar panels.

DISTURBED AREA: The total land area owned or controlled by a person or persons acting in concert that is devoted to a solar energy conversion system, including all land areas that are stripped, cut, graded, grubbed, filled, bulldozed, or excavated at any time during the site preparation (including existing or new access roads), all areas that contain associated facilities such as electrical lines and poles, and all areas within the perimeter of the fenced site on which the solar panels are located (including inter-panel space).

DUAL USE: Dual use is the integration of agricultural production with a photovoltaic (PV) system. It allows for solar energy production while maintaining agricultural activities.

HIGH VALUE PUBLIC RESOURCE: Any pond, river, stream, public roadway, historic structure or district, conservation land including land protected by a conservation easement, or public property used by the general public for outdoor recreation.

SOLAR ENERGY CONVERSION SYSTEM: A complete assembly of solar collectors and associated mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure that collects and converts solar energy to electric or thermal energy and stores and delivers such electric or thermal energy for on-site, microgrid, or remote use. The system includes the arrays of solar panels and all associated facilities and disturbed areas, including but not limited to batteries, electrical lines and poles, and access roads.

Approved at Town Meeting _____(Date)

Attested a True Copy, _____, Town Clerk Date: _____