

TOWN OF LOWELL – COMMERCIAL SOLAR ORDINANCE

Version 1.0: June 2024

Adopted: _____

Section 1. Title

This Ordinance shall be known and may be cited as the “Solar Ordinance”.

Section 2. Purpose

The purpose of this ordinance is to establish a municipal review procedure and performance standards for commercial Solar Energy Systems (SES), including those typically characterized as “solar farms”.

These standards are intended to:

- a. Establish clear guidelines, standards and time frames for the Town to regulate Solar Energy Systems;
- b. Permit the Town to fairly and responsibly protect public health, safety and welfare;
- c. Minimize any potential adverse effect of solar development on surrounding land use;
- d. Provide for the decommissioning/removal of panels and associated utility structures that are no longer being used for energy generation and transmission purposes;
- e. Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural, scenic, and agricultural resources.

Section 3. Applicability

Solar Energy Systems (SES) are subject to location and permitting requirements as set forth in the Land Use Ordinance. All SES shall be designed, erected and installed in accordance with all applicable local, state and federal codes, regulations and standards. A SES approved for construction 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 any existing SES, whether or not existing prior to the effective date of this Ordinance that expands or relocates the footprint of the SES, shall require approval under this Ordinance. Routine maintenance or replacements do not require a permit. Solar Energy Systems for single family residence are exempt from this ordinance.

4. Definitions

Solar Energy System (SES): a solar photovoltaic cell, module, or array, or solar hot air or water collector device, including all Solar Related Equipment, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small, medium, or largescale).

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure; may be of any size (small, medium, or large-scale).

Solar Energy System, Large-Scale: A Solar Energy System whose physical size based on total airspace projected over the ground is equal to or greater than 4 acres (174,240 square feet), and/or that generates a nameplate capacity of 1 MW or greater.

Solar Energy System, Medium-Scale: A Solar Energy System whose physical size based on total airspace projected over the ground is equal to or greater than 3,000 square feet but less than 4 acres (174,240 square feet), and/or that generates a nameplate capacity of 20 kW up to, but not including, 1 MW.

Solar Energy System, Small-Scale: Also known as an Accessory-Scale System. A Solar Energy System whose physical size based on total airspace projected over the ground is less than 3,000 square feet and/or that generates a nameplate capacity of less than 20 kW. Such a system may consist of one (1) or more freestanding ground, or roof mounted, solar arrays, or solar related equipment, and is intended to primarily reduce on-site consumption of utility power or fuels. Such a system generally occupies ~1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW or less).

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

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

Megawatt Hour (MWh): A megawatt hour is equal to 1,000 Kilowatt hours (Kwh). It is equal to 1,000 kilowatts of electricity used/generated continuously for one hour.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

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

Solar Array: A grouping of multiple solar modules with the purpose of harvesting solar energy.

Solar Farm: See Solar Energy System.

Solar Related Equipment: Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, fencing, foundations or other structures used or intended to be used for collection and management of solar energy.

Pure Tone: The simplest periodic sound: a constant sound created as a pressure disturbance that fluctuates sinusoidally as a fixed frequency.

Section 5. Application and Permit Fee.

- A. Non-refundable Permit Application Fees are \$10,000 for large scale, \$2500-\$5000 for medium scale based on kW of SES and \$200 for small scale SES
- B. Building Permit Fees shall be assessed per the Town of Lowell Building Permit Schedule.
- C. Building Permits will expire two years after issuance. A simple permit time extension will require PB review and approval. Modification extension requirements are described in Section 9 of this Ordinance.

Section 6. Specific Application Requirements

In addition to the requirements listed in the Town's Land Use Ordinance, an application for a Large or Medium Scaled Solar Energy System Permit must also include the following, at the cost of the applicant:

- 1) A description of the owner of the SES, the operator if different, and detail of qualifications and track record to run the facility;
- 2) 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 SES and the life of the agreement;
- 3) A description of how and to whom the energy produced will be sold;
- 4) A copy of the agreement and schematic details of the connection arrangement with the transmission system, clearly indicating which party is responsible for various requirements and how they will be operated and maintained;
- 5) The layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory(ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with local ordinances, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
- 6) A description of the panels to be installed, including make and model, and associated major system components;
- 7) A construction plan and timeline, identifying known contractors, site control and anticipated on-line date;
- 8) An operations and maintenance plan, including site control and the projected operating life of the system; Such a plan shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- 9) An emergency management plan for all anticipated hazards;
- 10) A stormwater management plan, certified by a licensed Maine engineer, that demonstrates stormwater from the SES will infiltrate into the ground beneath the SES at a rate equal to that of the infiltration rate prior to the placement of the system.
- 11) A background noise measurement for the site location as performed by a qualified professional.
- 12) Proof of financial capacity to construct and operate the proposed facility; letter required from financial institution.

13) A decommissioning plan, including:

a) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if 10% or less permitted capacity of electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

b) A description of the work required to physically remove all Solar Energy System and Solar Related Components, including associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing and subject to Planning Board approval. At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy System. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.

c) An estimate of the total cost of decommissioning value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, 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.

d) 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 Solar Energy System the Applicant will have the necessary financial assurance in place for 150% of the estimated total cost of decommissioning, subject to a review of such cost by the Code Enforcement Officer. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the facility 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. For a Large or Medium Scaled SES, the Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place within 5 years of the commencement of the project. *Note the applicant may apply to the Code Enforcement Officer for release of the guarantee at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Planning Board.

e) A letter committing the SES owner to submit a semi-annual Electrical Generation Production Report to the Town of Lowell. Each calendar year, the first report will be due by July 15th covering production from January 1st through June 30th, the second report will be due January 15th covering production from July 1st through December 31st.

Section 7. Standard for Approval

In addition to the Site Review standards and requirements included in Town's Land Use Ordinance, the following standards must also be met:

All electrical wiring must comply with the National Electrical Code. Prior to operation, electrical connections must be inspected by the State Electrical Inspector. Any connection to the public utility grid must be inspected by the appropriate public utility unless waived by the public utility.

A. Large and Medium- Scaled Ground-Mounted Solar Energy Systems:

1. Lots - SES shall not exceed 80% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.
2. Legal Responsibilities - The Applicant must provide proof that it has authorization to construct, use and maintain the property and any access drive for the life of the project and including the decommissioning of the project. The roles and responsibilities of the system 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. The owner or operator of a Ground Mounted Solar Energy System shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.
3. Deed Registration – Any Large or Medium Scaled SES system shall be incorporated into the description of the real property in the lot/property deed and registered with the Penobscot County Registry of Deeds as a condition of Planning Board approval.
4. Setback - Structures within a SES shall be setback a minimum of 100 feet from the side and rear property lines and meet the front setback requirements for structures within the zoning district. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.
5. Prohibited Locations – Components of a ground mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
6. Utility Notification - No grid-intertied photovoltaic system shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the utility to accept the power. Off-grid systems are exempt from this requirement.
7. Fence - Ground Mounted Solar Energy Systems shall be protected by a perimeter fence. Such fences shall allow for small wildlife passage and movement.
8. Signage - A sign shall be required to identify the owner/operator and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising. A clearly visible warning sign shall be placed at the base of all pad-mounted

transformers and substations and on the any fence surrounding the SES informing individuals of potential voltage hazards.

9. Screening - Lots on which Ground Mounted Solar Energy Systems are located shall utilize buffers / screening from roads and residences by plantings, berms, and natural topographical features. Ground mounted SES shall be screened from view to the greatest extent practical of any adjacent property that is residentially zoned or used for residential purposes, as well as any public way. The screen shall consist of a vegetative barrier which provide a visual screen. In lieu of a vegetative screen, a fence that provides visual screening, and meets requirements of the controlling ordinance, may be allowed only if a vegetative screen is deemed impractical by the Planning Board.

10. Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

11. Noise – No noise generated by the SES or Solar Related Equipment shall be 10 decibels (dB) greater than the preconstruction / existing background level, nor generate a Pure Tone. The background noise limit will be based on background noise during the quietest period of the night, typically 3:00 am.

12. Lighting - Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of the Town of Lowell Land Use Ordinance. Other than required lighting, lighting shall not be used / visible between 9pm and 7am.

13. Impervious Assessment - The surface area of the arrays of a ground mounted SES, regardless of the mounted angle of any solar panels, may or may not be considered impervious contingent upon conformity with the stormwater management plan.

14. Emergency Services – SES owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A “3200 Series KNOX-BOX”, or agreed equivalent, shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

15. Maintenance Conditions - The SES owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, vegetative screening, fences, landscaping and plantings, and integrity of security measures. The SES 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. Site access shall be maintained to a level acceptable to the fire chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the SES and any access road(s), including regular plowing of snow to maintain road access.

16. Satisfaction with All Aspects of Capacity and Plans Submitted -- The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the SES.

17. Removal - When any portion of a ground mounted SES is removed, any earth disturbance must be graded and re-seeded, unless authorized for another developed use.

18. Alternatives Assessment - As determined by the Planning Board, if a proposed ground-mounted SES does not meet the standards in this Ordinance or associated Town LUO standards then other potential suitable alternative area(s), on the lot(s) included in the application, where a SES can meet the Town's standards, goals, and objectives needs to be evaluated by the applicant. Alternative lot areas should be evaluated against the same Ordinance standards.

B. Commercial Small-Scaled Ground-Mounted Solar Energy Systems:

1. Lots - SES shall not exceed 10% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.

2. Setback - Structures within a SES shall be setback a minimum of 50 feet from the side and rear property lines and meet the front setback requirements for structures within the zoning district. Any solar photovoltaic cells or arrays shall be subject to a maximum height of 10 feet above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

3. Prohibited Locations – Components of a ground mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

4. Signage - Solar energy systems shall not be used for displaying any advertising.

5. Screening - Lots on which Ground Mounted Solar Energy Systems are located shall utilize buffers / screening from roads and residences by plantings, berms, and natural topographical features. Ground mounted SES shall be screened from view of any adjacent property that is residentially zoned or used for residential purposes, as well as any public way. The screen shall consist of a vegetative barrier which provide a visual screen. In lieu of a vegetative screen, a fence that provides visual screening, and meets requirements of the controlling ordinance, may be allowed only if a vegetative screen is deemed impractical by the Planning Board.

6. Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

7. Lighting - Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of the Town of Lowell Land Use Ordinance. Lighting shall not be used / visible between 9pm and 7am.

C. Commercial Roof Mounted Solar Energy Systems:

1. The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the SES.
2. SES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.
3. Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.
4. All SES shall meet all applicable fire safety and building code standards. For firefighter access, a minimum three (3) foot buffer zone is required from the ridge and one (1) edge of the roof or parapet.

Section 8. Decommissioning and Removal

1. Any Ground Mounted Solar Energy System that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the Planning Board during the application process. The landowner, or SES owner or operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.
2. Decommissioning shall consist of: a. physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site; b. disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and c. stabilize or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation. The Burlington-Lowell Transfer Station will not accept any components of a decommissioned Large, Medium or Small Commercial solar generation facility.
3. Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Ground Mounted Solar Energy System shall be considered abandoned when it fails to generate 10% or less permitted capacity of electricity for a continuous period of twelve (12) months without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.
4. If the owner or operator of a Ground Mounted Solar Energy System fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of Lowell retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.

Section 9. Modifications

1. Any physical modification to any existing SES, whether or not existing prior to the effective date of this Ordinance, shall require review and approval under this Ordinance.
2. Any modifications to a Medium to Large Scaled Ground-Mounted Solar Energy System made after issuance of the required town permit(s) shall require approval by the Planning Board.
3. Any modifications to a Small-Scaled Ground-Mounted Solar Energy System made after issuance of the required town permit(s) shall require approval by the Planning Board.
4. A non-refundable application fee for modifications to any existing SES is \$200.
5. Building Permit fees for modifications to any existing SES shall be assessed per the Town of Lowell Building Permit Fee Schedule.

Section 10. Authority

1. This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, provisions of 30-A, M.R.S. § 3001, Ordinance Power, the provisions of 30-A, M.R.S. § 4352, Zoning, and the provisions of Title 30-A §4311 et seq. (Comprehensive Planning and Land Use Regulation, or “Growth Management” Act).
2. To the extent that any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision shall be removed from the Ordinance and the balance of the Ordinance shall remain valid.
3. Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant, the more restrictive or higher covenant shall govern, unless otherwise prohibited by State Law.

Section 11. Effective Date and Duration

This Ordinance shall take effect on _____ upon enactment by the Town of Lowell unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 12. Appeals

The Lowell Board of Appeals as appointed and composed shall decide administrative and variance appeals under this Ordinance and in accordance with Title 30-A, MRS Section 4353.

A. Powers and Duties. The Board of Appeals shall have the following powers and duties:

1. Administrative Appeals. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.

2. Variance Appeals. To hear and decide, upon appeal, in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance would result in undue hardship.
 - a. Undue hardship shall mean:
 - i. That the land in question cannot yield a reasonable return unless a variance is granted and;
 - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood and;
 - iii. That the granting of a variance will not alter the essential character of the locality and;
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.

Administrative Appeals Procedure

- A. Time Limit. If the Code Enforcement Officer or Planning Board disapproves an application or grants an approval with conditions that are objectionable to the applicant or to any abutting landowner or other aggrieved party, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance has been misconstrued or wrongfully interpreted, the applicant, any abutting landowner, or other aggrieved party may appeal the decision of the Code Enforcement Officer or Planning Board in writing to the Board of Appeals within 30 days after the Code Enforcement Officer's decision is made.
- B. Written Notice. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 1. A concise written statement indicating what relief is requested and why it should be granted.
 2. A sketch drawn to scale showing lot lines, location of existing buildings and structures along with other physical features of the lot pertinent to the relief requested.
- C. Record of Case. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- D. Public Hearing. The Board of Appeals shall hold a public hearing within thirty-five (35) days of its receipt of an appeal request. Notice of the public hearing of each appeal shall be published at least once in a newspaper of general circulation in the Town of Lowell at least fourteen (14) days prior to the date of the hearing. Notice of the hearing shall also be mailed to the applicant, the Planning Board, the Municipal Officers, and to the abutting property owners at least fourteen (14) days prior to the hearing date.
- E. Decision by the Board of Appeals
 1. A majority of the Board shall constitute a quorum for the purpose of deciding an appeal.
 2. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of

the Code Enforcement Officer or the Planning Board, or to decide in favor of the applicant on any matter which it is required by this Ordinance to decide.

3. The person filing the appeal shall have the burden of proof.
 4. The Board of Appeals shall not conduct a de novo hearing but shall review the record that was before the Code Enforcement Officer or Planning board and may hear oral argument on that record. If the Code Enforcement Officer's or Planning Board's record is insufficient, the Board of Appeals may remand the matter to the Code Enforcement Officer or Planning Board for further proceedings. The Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon finding that the decision is contrary to the provisions of this Ordinance or that the decision is unsupported by substantial evidence in the record. Whenever the Board of Appeals does not affirm the decision of the Code Enforcement Officer or Planning Board, the case shall be remanded to the Code Enforcement Officer or Planning Board with instructions.
 5. The Board shall decide all appeals within thirty-five (35) days after the close of the public hearing, unless that time frame is not practical or the parties consent to a longer time frame, and shall issue a written decision on all appeals. The Board of Appeals must issue written notice of its decisions to the petitioner, the petitioner's representative or agent, the Planning Board and the Municipal Officers within seven (7) days after the decision is rendered, as required by Title 30-A MRSA, Section 2691 (3)(E), and to the Code Enforcement Officer.
 6. All decisions shall become part of the public record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.
- F. Appeal to Superior Court. Any party may take an appeal, within forty-five (45) days of the date of the vote on the original decision of the Board of Appeals to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Rule 80B.
- G. Reconsideration. The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. A vote to reconsider and the action taken on that reconsideration must occur and be completed within thirty (30) days of the original decision. The Board may conduct additional hearings and receive additional evidence and testimony.

Variance Appeals Procedure

- A. Variances may be granted only from dimensional requirements, including frontage, lot area, lot width, structure height and percentage of lot coverage.
- B. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance
- C. The Board shall not grant a variance unless it finds that:

1. The proposed structure or use would meet the requirements of this Ordinance except for the specific provisions which have created the nonconformity and from which relief is sought; and
 2. The strict application of this Ordinance would result in undue hardship.
- D. The Board of Appeals shall limit any variances granted as strictly as possible to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and, in doing so, may impose such conditions for a variance as it deems necessary. The party receiving the variance must comply with the conditions imposed and the failure to comply with any conditions imposed is a violation of this Ordinance.
- E. In areas subject to the Mandatory Shoreland Act, a copy of all variances considered by the Board of Appeals shall be submitted to the Department of Environmental Protection at least twenty (20) days prior to action by the Board.
- F. Certificate of Variance. A certificate evidencing the variance shall be recorded in the Registry of Deeds within ninety (90) days after it was granted in accordance with the provisions of Title 30-A MRSA, Section 4353, paragraph 5.

Section 13. Enforcement Violations and Penalties

This Ordinance shall be enforced by the Code Enforcement Officer, municipal officers or their designee. Violation of this Ordinance shall be subject to the enforcement and penalty provisions of 30-A, M.R.S. § 4452, Enforcement of Land Use Laws and Ordinances.

Selectboard:

A True Copy, Attest:

Town Clerk