Jay Solar Ordinance

I. Administration

Authority: This Ordinance shall be known and may be cited as the "**Jay Solar Ordinance**." It is adopted pursuant to the enabling provisions of the Maine Constitution and the provisions of Title 30-A M.R.S. Section 3001.

Purpose: The purpose of this Ordinance is to establish reasonable standards to protect neighboring properties, public health and safety, the municipality, and the natural environment from the risk of adverse impacts that may be associated with Solar Energy Developments.

Effective Date: This Ordinance shall be effective upon enactment by the annual town meeting or special town meeting of the Town of Jay.

Applicability: This Ordinance shall apply to all Solar Energy Developments that have not commenced construction prior to the Effective Date. This Ordinance shall also apply to any Expansion of an existing Solar Energy Development that commenced construction prior to the Effective Date. No person may commence construction of a Solar Energy Development without first obtaining approval under this Ordinance.

Process for Review and Approval. The Planning Board shall be responsible for reviewing and approving all applications for Solar Energy Developments. The Planning Board shall hold a public hearing on an application for a Solar Energy Development within 30 days of when the application is deemed complete and shall issue a decision on the application within 30 days of the close of the public hearing. The Planning Board also shall be responsible for reviewing and approving all Major Modifications and shall make a decision on a Major Modification within 30 days of when the application is deemed complete unless the Planning Board opts, at its sole discretion, to hold a public hearing, in which case the timelines for considering an application for a Solar Energy Development shall apply.

The CEO is authorized to determine whether an application for a Solar Energy Development or Major Modification is complete but may request that the Planning Board make that determination.

Permit Expiration. The Planning Board approval shall lapse after two years if the Solar Energy Development has not commenced construction within that time period. If the Solar Energy Development submits an extension request to the CEO prior to permit expiration, the Planning Board approval shall automatically be extended for one additional year. Any subsequent extensions must be approved by the Planning Board, and the Planning Board may grant such extensions only upon a showing of good cause.

Permit Modifications. The CEO may approve Minor Modifications to the approved Solar Energy Development. Any Major Modifications require Planning Board review and approval. Like-kind replacements and routine maintenance and repair do not require a permit modification. Likewise, changes to the make or model of equipment identified in the application, to the proposed layout

within the fenced area that do not involve an increase in the cumulative project footprint or impacts to regulated natural resources, or other de minimis changes as determined by the CEO do not require a permit modification.

Fees. The application fees for Solar Energy Developments shall be set by the Town and updated annually. The required application fee cannot exceed the reasonable cost to the Town of reviewing the application. In addition, if the Planning Board determines that independent review by legal, engineering, or other professionals is required to evaluate application it may require the applicant to pay the reasonable fees associated with the use of such outside experts.

II. Definitions

Expansion: Expansion means the modification of a Solar Energy Development that commenced construction prior to the Effective Date such that the energy output or project footprint of the Solar Energy Development is increased.

General Performance Standards: The standards and requirements set forth in Section V below.

Minor Modification: Any physical change in the permitted Solar Energy Development that does not increase the total area of development on the site (inclusive of panel area and vegetation clearing).

Major Modification: Any physical change in the permitted Solar Energy Development that increases the total area of development on the site (inclusive of panel area and vegetation clearing).

Residential Structure: Buildings or structures maintained and used for permanent or seasonal residential occupancy and that provide living, cooking, and sleeping facilities and have permanent indoor or outdoor sanitary facilities.

Participating Property: Real property that is the subject of a written agreement between the Solar Energy Development and the owner of the real property that provides the Solar Energy Development an easement, option, or lease to use the real property for purpose of constructing or operating the Solar Energy Development.

Performance Standards Specific to Solar Energy Developments: The standards and requirements set forth in Section IV below.

Site Location of Development Law (SLODA): The Site Location of Development Law, 38 M.R.S. ¶¶ 481 et seq., as may be amended from time to time.

Solar Energy Development: A ground-mounted assembly of equipment and infrastructure that captures and converts solar energy into electricity using photovoltaic technology. This includes, but is not limited to, solar panels or collectors, mounting hardware, inverters, wiring, transformers, access roads, perimeter fencing, and other associated components. Solar Energy

Development does not include residential systems where the output is used by the owner of the property on which the system is located.

III. Submission Requirements

The following information as well as information necessary to demonstrate compliance with the Performance Standards Specific to Solar Energy Developments must be submitted with an application for approval. In addition, for those projects that do not require review and approval under SLODA, the application must include information sufficient to demonstrate compliance with the General Performance Standards.

A. Name and contact information of the facility owner and operator, as well as the name and contact information of the Participating Property owner(s).

B. An existing conditions plan showing current site features, including existing vegetation, wetlands, and other regulated natural resources, topography, and any existing or adjacent structures within 500 feet of the limit of disturbance. The plan should also show available information on property boundaries, roads, and any utilities, rights-of-way, and easements located on or adjacent to the site.

C. Scaled plans showing the location of the proposed Solar Energy Development on the property, including property boundary information, limits of tree clearing and fencing, anticipated panel footprint, access roads and turnout locations, and the location of interconnection infrastructure. The plan should identify all required setbacks and vegetated buffers.

D. Description of the proposed Solar Energy Development, including the size of the area to be occupied by solar arrays, whether the system will consist of fixed tilt or tracker panels, and the expected installed generation capacity of the system.

E. Copies of all applicable state and federal agency permit applications or approvals, including but not limited to those from the Maine Department of Environmental Protection (DEP); Maine Department of Agriculture, Conservation and Forestry (DACF); U.S. Army Corps of Engineers (USACE); and any other regulatory entities with jurisdiction over the project. If the project is seeking outside agency approvals concurrently or after local review, all approvals must be submitted to the CEO prior to the start of construction.

F. A high-level construction management plan and project timeline, including identification of all known contractors, confirmation of site control during construction, the anticipated start date, major construction milestones, and the expected date the system will be operational. This is for informational purposes and modifications to this plan do not require a permit amendment.

G. A proposed maintenance and operations plan describing the regular operation and upkeep of the facility. The plan shall address routine inspections and maintenance,

vegetation management methods and frequency, revegetation monitoring, rehabilitation of disturbed soils, and general landscaping on site. A finalized plan that includes a list of responsible project personnel and their contact information should be submitted prior to operation.

H. An emergency management plan that includes procedures for fire prevention, system shutdown, emergency access, and identification of any site-specific hazards or safety risks associated with the Solar Energy Development. This plan should also include a list of responsible project personnel and their contact information as well as the 24-7 emergency contact number.

I. A decommissioning plan describing the process for removal of the Solar Energy Development and proposed financial assurance.

J. An estimate of the vehicle traffic to be generated during construction and operation of the Solar Energy Development.

IV. Performance Standards Specific to Solar Energy Developments

The following performance standards specific to solar energy apply to all Solar Energy Developments. No permit can be issued by the Town under this Ordinance until the applicant has demonstrated these standards have been met.

A. Decommissioning. The Solar Energy Development must submit a decommissioning plan that is consistent with the requirements of 35-A M.R.S. Sections 3491-3497. The plan must be prepared and stamped by a Maine licensed professional engineer. In addition, the Solar Energy Development must provide financial assurance adequate to cover the full cost of implementing the decommissioning plan (excluding any credit for salvage value). The financial assurance may be in the form of a bond or letter of credit, or other similar mechanism approved by the Town. This decommissioning requirement is independent of any decommissioning requirements required pursuant to State law. However, if the Solar Energy Development is required to provide a decommissioning plan and associated financial assurance to the State the same financial assurance may be used to satisfy this requirement as long as the Town approves the amount and form of the financial assurance and is a beneficiary under the financial assurance.

B. Setbacks. The Solar Energy Development must be set back at least 100 feet from the nearest property line of a non-Participating Property and from the nearest public road. Setbacks are measured from the nearest edge of the perimeter fencing of the Solar Energy Development to the property line or, in the case of a public road, the nearest edge of the public road right-of-way. Driveways, private access roads, and electrical transmission poles and lines are not subject to the minimum setback requirements. The setback from the nearest property line of a non-

Participating Property may be waived subject to the written consent of the impacted non-Participating Property owner.

C. Buffers. To minimize the visual impacts of the Solar Energy Development there must be a minimum of a 100-foot vegetated buffer between the Solar Energy Development and abutting properties that have one or more residential structures as of the date the application is deeded complete, and a 50-foot vegetated buffer between the Solar Energy Development and all other properties. Openings in the buffers are allowed for access roads, entrances, electrical lines, emergency access, stormwater infrastructure and similar improvements. Existing woody and shrubby vegetation may be retained to meet this buffer requirement. The Planning Board may require new plantings where it determines that the existing vegetation is insufficient to minimize impacts on scenic resources. New plantings shall consist of at least two rows of plantings and include only native species of trees and shrubs. Vegetated buffers must be maintained until the Solar Energy Development is decommissioned.

   The Planning Board may waive the requirement for vegetated buffers for any portion of the Solar Energy Development if it determines that vegetated buffers in that location are not necessary to minimize adverse visual impacts on the adjacent uses.

D. Height Limits. The Solar Energy Development may not exceed 20 feet in height. The height is measured from the ground to the top of the solar modules at full tilt. Electrical poles are not subject to the height limits.

E. Protection of Local Roads. The Solar Energy Development must conduct a pre-construction existing conditions survey of all roads within the Town of Jay that will be used during construction (excepting roads used solely by individuals traveling to and from the site in passenger vehicles). The survey must be submitted to and approved by the CEO prior to the start of construction. Following completion of construction the Solar Energy Development must conduct another survey using the same methodology and intended to quantify any damage to roads within the Town of Jay resulting from construction of the Solar Energy Development. The Solar Energy Development shall repair or cause to be repaired all damage to the roads within the Town of Jay attributable to the construction of the project. The Town shall cooperate with the Solar Energy Development to facilitate repair of any Town owned roads. The Planning Board may require that the Solar Energy Development post a bond in an amount sufficient to cover any reasonably anticipated damage to Town owned roads resulting from construction of the Solar Energy Development.

F. Traffic. The applicant shall demonstrate that traffic associated with construction and operation of the Solar Energy Development will not cause unreasonable congestion or unsafe conditions on roads within the Town of Jay.

V. General Performance Standards

The following general performance standards apply to all Solar Energy Developments. The Town acknowledges that these standards are also evaluated by the Maine DEP pursuant to SLODA, which regulates developments that either occupy an area in excess of twenty acres or include more than three acres of area that is stripped or graded and not revegetated within a year. Accordingly, for those Solar Energy Developments that trigger SLODA, the SLODA approval shall constitute proof that the General Performance Standards below have been met. The Planning Board may issue a permit for approval conditioned upon submission of the SLODA approval prior to start of construction of the Solar Energy Development. If the project does not require review and approval under SLODA, then the Planning Board shall evaluate and determine whether these General Performance Standards have been met before issuing a permit.

A. Stormwater Management. The proposed activity must provide for adequate stormwater management and avoid potential adverse impacts associated with stormwater from the development during operations.

B. Erosion and Sedimentation Control. The development must implement erosion and sedimentation control measures consistent with the Maine Erosion and Sediment Control Best Management Practices published by the Maine DEP. Soil disturbance must be kept to a minimum and disturbed areas must be stabilized as appropriate during the construction process.

C. Groundwater and Surface Water Protection. The development shall not adversely affect the quality or quantity of groundwater, aquifers, or surface waters.

D. Natural Resources and Habitat. The development shall be designed to minimize adverse impacts to wetlands, waterbodies, significant wildlife habitat and rare or endangered plant and animal species and habitat.

E. Historic and Archaeological Resources. The development shall not have an undue adverse affect on historic sites, structures, or archaeological resources.

F. Noise. Noise from the development must meet the DEP noise standards under SLODA. The SLODA quiet limits of 55 dBA between 7:00 a.m. and 7:00 p.m. (the daytime hourly limit) and 45 dBA between 7:00 p.m. and 7:00 a.m. (the nighttime hourly limit) shall apply in all areas of the Town of Jay irrespective of the pre-development ambient hourly sound levels.

G. Solid Waste. The development shall provide for adequate disposal of solid waste generated during construction and operation.

H. Hazardous Materials. Hazardous materials must be stored, handled, and disposed of in accordance with state and federal laws.

I. Visual Impacts. The development shall not have an undue adverse impact on existing uses or scenic resources.