

**TOWN OF WHITING
WASHINGTON COUNTY, MAINE**

COMMERCIAL SOLAR ENERGY SYSTEMS ORDINANCE

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Town of Whiting, Maine

Commercial Solar Energy Systems Ordinance

Section 1. TITLE

This ordinance shall be known and may be cited as the “Commercial Solar Energy Systems (SES) Ordinance.”

Section 2. AUTHORITY

This Ordinance is enacted pursuant to the Town’s home rule authority under Article VIII, Part Second of the Maine Constitution and 30-A M.R.S. § 3001.

Section 3. APPLICABILITY

1. This Ordinance applies to the entire town of Whiting including without limitation its islands and any waterways located within the designated boundaries of the town.
2. This Ordinance does not regulate private solar energy systems where the primary purpose of the system is to generate power for residential or local business personal use. See 33 M.R.S. § 1421, *et seq.*, as amended.
3. This Ordinance shall apply to all proposals for a new Commercial SES project, as defined below, including structures, enlargement of existing structures, and all new land uses. Commercial SES projects are subject to location and permitting requirements as set forth in sub-sections 7.1, 7.2, and 7.3 of the Whiting Land Use Permit Ordinance.
4. Any physical modification to a Commercial SES that exists as of the effective date of this Ordinance, that expands or relocates the footprint of the Commercial SES, shall require approval by the Planning Board under this Ordinance.

Routine maintenance or the installation of replacement equipment for an existing Commercial SES does not require a permit unless the planned work increases the design power generating capacity of the facility.

Section 4. PURPOSE AND INTENT

The purpose of this Ordinance is to establish municipal review procedures and performance standards to regulate Commercial Solar Energy Systems, including those typically characterized as “solar farms”. These standards are intended to:

1. Establish guidelines, standards, and time frames for the Town of Whiting to regulate Commercial SESs.
2. Protect property owners from new uses of land or structures which would make their own property less desirable and to protect the established character, social and economic stability of the Town of Whiting.
3. Promote safe and healthy conditions by protecting public health, safety, and welfare.
4. Protect the town character including the scenic and natural beauty of the area, maintaining open spaces, and anticipating and responding to the potential adverse effects of Commercial SES development on surrounding land uses.
5. Protect bird and other wildlife habitats, protect freshwater and coastal wetlands, conserve shore cover, and maintain visual/actual points of access to inland and coastal waters.
6. Protect archaeological and historic resources.
7. Prevent water and soil pollution.
8. Provide for the decommissioning of Commercial SES facilities that are no longer being used for power generation and transmission purposes.
9. Support the goals of the Whiting Comprehensive Plan.

Section 5. PROCEDURES

1. The Applicant may request a pre-application meeting with the Planning Board. The purpose of the pre application meeting is for the Applicant to present general information regarding the proposed Commercial SES facility to the Planning Board. It is also an opportunity for the Applicant to receive the Planning Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, engineering and various other cost incurred by the Applicant.
 - a. As part of the pre-application meeting, the Applicant may present a preliminary sketch plan and make a verbal presentation regarding the site and details of the proposed SES facility.
 - b. Following the Applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the Applicant into the application.
 - c. The Planning Board may consider whether an on-site inspection is advised. If so, a date is scheduled, and public notice given regarding the date and location.

The pre-application meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S. § 302, as amended.

2. Application and Permit Fees:

Ground Space Definition	Power Definition	Application Fee	Permit Fee
More than 2 acres but no more than 25 acres	>500kW	\$2,500.00	\$1.00 per kW
Up to 2 acres	<500kW	\$500.00	\$1.00 per kW

Before any activity to which this Ordinance applies may commence, an application shall be filed with the Planning Board for review. The application shall be accompanied by an application fee based upon the planned completed size of the Commercial SES (Ground Space Definition and/or Power Definition). The Commercial SES initial development project, and any subsequent modification project(s), is subject to a permit fee of \$1.00 per kilowatt of designed power generation capacity.

3. Upon submission, the Planning Board shall meet to determine whether the Application meets all submission requirements specified in Section 7 of this Ordinance. Upon determining that the Application is complete, the Planning Board shall set a time and place for a meeting for consideration of the application and will notify the Applicant.
4. The Planning Board may hire independent professional consultants to review Commercial SES applications to determine any impacts to nearby properties, public safety implications or address any issues with a Commercial SES application. The cost if any for such consulting services, including but not limited to the cost of the town’s attorney, shall be borne by the Applicant. The Planning Board will notify the Applicant of the consultant’s name and address, the reason for the consultation, and the estimated cost. Reimbursement of all such costs may be included on any permit approval as a condition of receiving a certificate of occupancy.
5. The Planning Board shall post notices of proposals and meetings in the town office and publish them in a local newspaper. The Applicant will inform abutters of proposals by certified return receipt mail where SES development will occur. The certified return receipt notices to abutters must be included as part of the application.
6. The Planning Board may hold a public hearing on the proposal within 30 days of receipt of the completed application if it feels such a hearing would be helpful in considering the proposal. If requested by one or more abutters, the Planning Board shall hold a public hearing. The Planning Board shall post notice of the public hearing in the town office at least 7 days prior to said hearing.

7. Within 30 days of the public hearing, if conducted, or if not conducted, within 60 days of determining that an Application is complete, the Planning Board shall either approve, approve with conditions, or disapprove the Application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

Section 6. STANDARDS

Standards listed in this section shall be used by the Planning Board for judging an application and shall serve as minimum requirements for approval of the proposal.

1. **Maintain Scenic Views:** All reasonable efforts as determined by the Planning Board, shall be made to ensure that Commercial SESs maintain scenic views identified by the Whiting Comprehensive Plan.
2. **Archaeological Sites:** Any development of a Commercial SES that involves structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Applicant, shall be submitted to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the Planning Board. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application. Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of historic places in the community.
3. **Lots and Coverage:** The collective components of a Commercial SES shall not cover more than 25 acres of total area and shall not exceed 50% (**changed to 75%**) coverage on any lot. Lot coverage shall be calculated based on the total Commercial SES structure surface area on and/or projected over the ground, including but not limited to all access roads, fences, solar arrays, and related structural components. The lot size and boundaries shall be confirmed and mapped by a Licensed Maine Surveyor. All Commercial SES should be designed and located to ensure access without reliance on and or interference with adjacent properties.
4. **Legal Responsibilities:** The Applicant must provide proof that it has authorization to construct, use and maintain the property and any access road for the life of the project including decommissioning. If the project site is leased, the lease term must cover the life of the project including decommissioning, with the property owner jointly and severally liable for the implementation and decommissioning plans. If the project is transferred, before or after completion, the Applicant remains jointly and severally liable for the implementation and decommissioning plans. 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 Applicant shall build and maintain any structures, equipment, and facilities in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.

5. **Deed Registration:** A notice of the Commercial SES decommissioning requirements for the property shall be recorded by the Washington Registry of Deeds within 30 days of the date the Commercial SES begins operation.
6. **Set Back:** All Commercial SES structures shall be set back a minimum of 100 feet from all lot lines to mitigate visual and functional impacts. An applicant may seek a waiver of the setback requirements from an abutting property owner, to a minimum distance of 50 **(changed to 10 feet)** feet from that abutting property line.

7.

Prohibited Locations: Commercial SES structures or equipment shall not be placed

8. within any legal easement or right of way, within any storm water conveyance system, or in any location that would alter or impede the operation of any storm water conveyance system and must comply with all requirements in the land use and shore land ordinance. A Commercial SES is not permitted within the shore land zone.
9. **System Types and Locations:** Only ground mounted photovoltaic Commercial SESs will be permitted in Whiting. All other Commercial SES system types are prohibited, including but not limited to systems built on or in waterways or water bodies, and thermal water or air collector systems.
10. **Equipment Quality:** Electrical equipment must have an Underwriters Laboratory or equivalent listing. Commercial SES equipment produced by any manufacturer, as determined by the Planning Board, known to produce poor quality equipment that is unsafe, and/or is known to leach toxic or hazardous chemicals into the environment is prohibited.
11. **Utility Notification:** Grid integrated Commercial SESs shall not be authorized by the Planning Board until evidence has been provided to the Planning Board that the applicant has an agreement with the utility to accept the power.
12. **Fence:** Commercial SESs shall be protected by a well-constructed perimeter security fence at least 8 feet in height. Such fences shall be raised a minimum of 5 inches above the ground to allow small for wildlife passage and movement.
13. **Signage:** Clear and visible signage shall be installed which identifies the Commercial SES operator and provides 24-hour emergency contact phone number. A clearly visible warning sign should be placed at the base of all pad mounted transformers, at substations, and on any fence surrounding the commercial SES informing individuals of potential voltage hazards. Signs should be posted at distances of every 25 feet. Commercial SESs shall not be used to display any advertising.

14. **Physical Screening:** Commercial SESs shall have perimeter screening that ensures structures, equipment, and facilities are screened from view to the greatest extent practical from any adjacent properties, roads, public ways or waterways. The screen shall consist of plantings, berms, or natural topographic features that will provide a visual screen. Existing plants trees and landforms should be used to the greatest extent practicable. If these methods are deemed impractical by the Planning Board a fence may be used if it complies with other town ordinances.
15. **Glare:** Commercial SESs shall be situated and constructed in a way that eliminates concentrated glare visible from other properties, abutters, roadways, scenic areas, waterways, and water bodies.
16. **Noise:** Any noise generated by the Commercial SES shall not be more than 10 decibels greater than the ambient noise level measured prior to construction, nor should it be a pure tone. The background noise measurement should be conducted during the quietest time of the night. This noise standard must be met at all property lines, public roads and right of ways, or any coastal or inland shoreline.
17. **Height Restrictions:** Commercial SES solar photovoltaic cells or arrays shall be subject to a maximum height of 15 feet above the ground surface when oriented at maximum tilt. Associated SES structures shall be subject to the maximum height regulation specified for principle and accessory buildings within the applicable zoning district.
18. **Lighting:** Commercial SES lighting shall be limited to that required for safety and operational purposes and be shielded to the maximum extent possible from visibility at abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut off fixtures to reduce light pollution. Other than required lighting, lighting shall not be used between the hours of 9:00 PM and 7:00 AM.
19. **Stormwater Management:** Commercial SES developments shall have a stormwater management system designed by a Maine Professional Engineer for both pre and post development conditions. Components of a Commercial SES must not be located so that stormwater runoff could negatively impact an adjacent water supply, for example, a domestic well or a septic system.
20. **Utility Connections:** Reasonable effort shall be made to place all utility connections for the Commercial SES underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical Transformers for utility interconnections may be above ground if required by the utility provider.
21. **Emergency services:** The Applicant shall provide a copy of the development project plan, electrical schematics, and site plan to the Fire Chief.

- a. The Applicant shall coordinate with the Fire Chief and any local emergency services in developing an emergency response plan.
 - b. A “3200 series KNOX-BOX” or agreed equivalent shall be provided and installed by the Applicant to be used to allow emergency service personnel continuous access. All means of shutting down powered systems shall be clearly marked.
 - c. The Applicant shall identify a responsible person to address and respond to public inquiries throughout the life of the Commercial SES.
 - d. The Applicant or Operator must provide emergency action training to Whiting emergency services personnel upon start of operations and at least once every three years to the satisfaction of the Fire Chief.
22. **Fire Safety:** Commercial SES solar photovoltaic (PV) systems shall be installed in accordance with the *2018 edition of the International Solar Energy Provisions code (ISEP)*. The electrical portion of the solar PV systems shall be installed in accordance with NFPA 70. Ground mounted solar photovoltaic systems shall comply with section 1205.5 of the *International Fire Code*.
23. **Electromagnetic and Radio Frequency Radiation Emissions (EMFR):** Electromagnetic and radio emissions of any frequency from Commercial SES operations shall be minimized within the limits established by the international Commission on Non-Ionizing Radiation Protection (ICNRP) and the Institute of Electrical and Electronics Engineers at any property lines, public roads and right of ways, or any coastal or inland shoreline.
24. **Ongoing Maintenance:** The Planning Board must find that the Applicant has an appropriate operations maintenance plan. Commercial SESs must be properly maintained and be kept free from all hazards detrimental to public health, safety, or general welfare.
- a. Maintenance shall include but is not necessarily limited to, painting, structural repairs, vegetative screenings, fences, landscaping and plantings, and security measures.
 - b. Cleaning of solar panels using harsh chemicals shall be avoided as they may damage the surface of the panel and leach into the water supply. A mixture of water, mild detergent and ammonia may be safely used for cleaning.
 - c. Site access shall be maintained to a level acceptable to the Fire Chief for emergency response. The applicant shall be responsible for the costs of maintaining the SES and any access road(s) including regular plowing of snow to maintain road access.

d. When any portion of a ground mounted Commercial SES is removed, any earth disturbance must be graded and reseeded, unless authorized for another use.

25. **Decommissioning and removal:** Any Commercial SES shall have a decommissioning plan developed by a qualified expert, reviewed by the Code Enforcement Officer (CEO), and approved by the Planning Board. The plan shall include the qualified expert's name and business information. The plan must adhere to the minimum requirements established in 35 M.R.S. § 3494, as amended. "c Refer to Section 8 of this Ordinance for the "Decommissioning Plan Requirements."

26. **Sufficient Financing:** The Planning Board must find that the Applicant has the financial resources to fund development, safely operate and decommission the Commercial SES.

Section 7. SPECIFIC APPLICATION SUBMISSION REQUIREMENTS

An application for permit to construct and operate a Commercial SES must include the following submitted items at the cost of the applicant:

1. Identities of the owner and operator, if different, with contact information. Detailed qualifications of the operator and an overview of their experience and safety record.
2. If the Applicant will be leasing the site, a copy of the lease agreement (excluding financial consideration terms) and a document detailing roles, rights and responsibilities of the Commercial SES owner, operator, landowner, and any other responsible parties over the life of the lease agreement.
3. A description of how and to whom the energy produced will be sold and or used.
4. A copy of the agreement and schematic details of the connection arrangement with the transmission or grid system clearly indicating the roles, rights, and responsibilities of all parties involved over the development, operation, and decommissioning of the Commercial SES.
5. The Commercial SES design and equipment layout plan showing conformance to applicable industry standards, including, but not limited to the American National Standards Institute (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), or other similar certifying organizations.
6. A description of the PV panels, major components, and equipment to be installed, including manufacturer, make and model, and design specifications.

7. A complete construction project plan which includes the following: a timeline for the project phases, identification of known contractors, site security controls, electrical schematic, anticipated date of initial operations and a site plan which includes the following:
 - a. Property lines and physical features, including roads, for the project site;
 - b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - c. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;
 - d. Locations of important plant and animal habitats identified by The Maine Department of Inland Fisheries and Wildlife or the Town of Whiting, or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitats as identified by the Main Natural Areas Program; **no wetland shall be impacted and all wetland setbacks shall be observed;**
 - e. The locations of wetlands and waterbodies. Wetlands shall be delineated by a licensed site evaluator and marked on the site before development begins;
 - f. Locations of “Prime Farmland” and “Farmland of Statewide Importance”;
 - g. Locations of floodplains as defined in the Town of Whiting Floodplain Management Ordinance;
 - h. Such plan will also be submitted to the Whiting Fire Chief, along with a signed waiver acknowledging that the Town of Whiting and the Whiting Town Fire Department have no liability beyond containing said fire to the property.

i **No SES shall produce power (go on line) until a final inspection and Planning Board sign off has occurred, to insure all of the requirements of this ordinance have been met.**

8. An operations and maintenance plan, including site security controls and the projected operating life of the Commercial SES. Such plan shall be completed by qualified experts and include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance. The plan shall include all efforts to protect and support beneficial flora and fauna (e.g., wildlife, birds, bees, butterflies, wildflowers, etc.) as well as a commitment to not use pest control substances (e.g., pesticides, herbicides, fungicides, and/or insecticides). Qualified expert’s names and places of business shall be included with the plan.

9. An Emergency Management Plan addressing all reasonably anticipated potential hazards, which shall be approved and filed with the Fire Chief.
10. A stormwater management plan, certified by a Licensed Maine Engineer. The Licensed Engineers certification, name and business shall be disclosed as part of said plan.
11. A Soils and Groundwater Assessment, a Soils Management Plan, and a Soils Testing Plan from a qualified soils and water expert that contains proper provisions by the expert for yearly testing for contamination that may be produced by or leach from the Commercial SES. The soils and water expert's name and business shall be provided as part of the plan.
 - a. The plan will include appropriate soils and groundwater testing before construction to determine existing baseline conditions.
 - b. The plan will ensure testing the overall site conditions during construction, and after operation starts, on an annual frequency until decommissioning of the Commercial SES is complete. Annual test results and reports will be sent to the CEO.
 - c. Should soil or groundwater contamination occur at any point over the life of the Commercial SES, a point source contamination remediation plan will be developed and submitted to the CEO. The plan will include remediation actions to be performed by a qualified soils and groundwater specialist. The specialist's name and business shall be disclosed as part of the plan.
12. Evidence that the noise levels at all property lines, public roads and right of ways, or any coastal or inland shoreline will not exceed 10 (10) dB above preconstruction noise levels at any time during steady state operation of the Commercial SES. Any submitted noise study must have been conducted at the quietest time of night.
13. A copy of the deed detailing the property boundaries and lot description for the proposed Commercial SES project site and the survey of the property conducted by a Licensed Maine Surveyor including the Applicant's name and business information.
14. Hazardous waste disposal plan demonstrating compliance with local, state and federal waste disposal regulations.
15. An Electromagnetic and Radio Frequency Radiation (EMFR) Management Plan provided by a reputable professional EMFR consultant. The EMFR Management Plan will demonstrate baseline EMFR survey results and planned actions to keep EMFR emissions from the Commercial SES within the limits specified by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) at any property lines, public roads and right

of ways, or any coastal or inland shoreline. Documentation shall include EMFR professional's name and business information.

16. Copies of notifications and receipts sent to all abutters. Such notification shall be sent certified mail with return receipt at least 2 months prior to application submission to the Planning Board. Written notification shall include a detailed description, overall sketch, and location of the proposed SES.
17. A copy of public postings published in three local newspapers with the widest local community circulation with proof of publication date. The public postings will include an overview of the Commercial SES project and intent to seek Planning Board approval and shall be posted in two issues of each publication prior to submitting a proposal to the Planning Board.
18. A Decommissioning Plan meeting the requirements of Section 8 of this ordinance shall be provided by a qualified expert.
19. Should a proposed Commercial SES project fail to meet the standards of this Ordinance, an Applicant may modify the system and amend the application to propose an alternative site on the original lot, where the project may comply with applicable standards.

Section 8. DECOMMISSIONING PLAN REQUIREMENTS

As defined in 35-A M.R.S. § 3491(A), “[d]ecommissioning is the physical removal of all components of a solar energy development, including but not limited to solar panels and associated anchoring systems and foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, and other structures, buildings, roads, fences, cables, electrical components or associated facilities and foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise or proposed to be placed in productive use or otherwise authorized to remain in place by the environmental permitting entity.”

For any portion of a Commercial SES located on land classified as farmland by the Maine Department of Agriculture, Conservation and Forestry, anytime within 5 years preceding the start of construction of the development, “decommissioning” means the physical removal of all such components of the development to a depth of at least 48 inches or to the depth of bedrock whichever is less, to the extent such components are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by environmental permitting entity.

A Decommissioning Plan shall be provided by a qualified expert for review and approval by the Planning Board and CEO. The plan shall include qualified expert's name and business information.

A. Decommissioning Plan Components. A Decommissioning Plan must include, at a minimum, the following components:

1. A description of the work required to physically remove all Commercial SES structures, equipment, security barriers, foundations above and below grade, and transmission lines from the site, with a decommissioning schedule. At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all components. Any changes to the approved Decommissioning Plan shall be subject to review of the CEO and approval by the Planning Board.
2. An estimate of the total cost to decommission the Commercial SES including an itemized list of estimated major expenses. The estimates will also include measures to be taken to minimize or prevent adverse impacts on the environment during decommissioning plan execution. The itemized cost may include, but are not limited to panel, equipment, foundation, building, transmission corridor, and road removal and permanent stabilization.
3. An inflation guard provision where cost will be adjusted yearly for inflation based on the Consumer Price Index (CPI) forecast over the design life of the project. Such adjustment shall be reflected in the amount covered and/or available for the estimated total cost of decommissioning as itemized in Item 2 of this section.
4. A performance and payment bond, surety bond, irrevocable letter of credit, or other form of financial assurance deemed acceptable by the Planning Board to ensure that at the end of the Commercial SES's useful life the Applicant will have the necessary financial resources to pay for 110% of the estimated total inflation adjusted cost of decommissioning. The financial assurance shall include a provision granting the Town of Whiting the ability to access the funds and property to perform the decommissioning if the facility is abandoned, or the Applicant or subsequent responsible party fails to meet their obligation after reasonable notice. Any transfer of the Commercial SES to a new owner during its operational life shall require the submittal of an updated performance guarantee to the Town naming the new owner as the owner.
5. Disposal plan for all the decommissioned equipment and facilities with specific provisions for solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations.
6. Letter acknowledging and agreeing to the decommissioning plan performance triggers detailed in Section 8.B. below.

B. Decommissioning Plan Performance Triggers

The following decommissioning plan triggers shall be acknowledged and agreed to by the Applicant:

1. A Commercial SES will be presumed to be abandoned if it ceases to operate at least 50% of its nameplate capacity for twelve (12) consecutive months. Upon such occurrence, the Planning Board will notify the Applicant that a presumption of abandonment has arisen. The Applicant may file an objection within 30 days of notification. The Applicant will then be afforded the opportunity to rebut the presumption of the Planning Board. If, after notice and hearing, the Planning Board finds that Commercial SES has not been abandoned, the Applicant will be required to file a reasonable timetable for recommencing operations or initiating decommissioning. If the Planning Board finds that the applicant has not rebutted the presumption, decommissioning will be initiated. The Applicant may appeal the Planning Board's finding of abandonment to Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure. Decommissioning will be stayed during any such appeal.
2. The decommissioning plan shall be initiated if the project causes the soils and/or groundwater to become contaminated beyond baseline levels measured during the initial soils and groundwater assessment and remediation has not been initiated within 30 (thirty) days of identifying contamination. Proof of remediation must be provided to the Planning Board within 6 (six) months. An extension of the six-month requirement may be granted by the Planning Board where reasonable progress is being made. Remediation must be completed by a qualified remediation expert. Documentation detailing remediation actions and the professional's name and business information shall be provided to the Planning Board.

C. Applicant Reporting Requirements

1. The Commercial SES Applicant will provide the CEO and Planning Board a report detailing monthly power production output, and output as a percentage of nameplate capacity for the prior full six months by January 15 and July 15 each year.
2. The Commercial SES Applicant will provide the results of annual soil and water contamination monitoring to the CEO and Planning Board by January 15 of each year.

D. Decommissioning Plan Execution

1. Commercial SESs that have reached the end of their useful operating life, ceased to generate power, or have been abandoned shall be decommissioned in accordance with the approved Decommissioning Plan.
2. Decommissioning should be completed in accordance with the decommissioning schedule contained in the Decommissioning Plan.

3. The Applicant or current responsible party shall notify the CEO by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for decommissioning.
4. The Applicant or current responsible party may apply to the Select Board for release of any financial assurances at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal was found to be satisfactory by the Planning Board.

Section 9. DEFINITIONS

Abutter/Abutting Property: A person who owns property that adjoins the delineated project site property boundary, including owners of property directly across a public or private way.

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

Commercial solar energy systems (SES): A solar energy system where the primary purpose of the system is to generate income from the power produced for off-site consumption.

Commercial solar panel (CSP): A commercial solar panel is a collection of photovoltaic solar cells grouped together. Each photovoltaic solar cell converts the energy of the sun into electricity.

Electromagnetic and Radiofrequency Radiation (EMFR): All known EMFR fields commonly referred to as, including but not limited to, electromagnetic fields, electric fields, magnetic fields, radio frequency radiation, radio frequency microwave radiation, dirty electricity, ionizing radiation, non-ionizing radiation, and power frequency ELF from both wired and wireless apparatus and technologies.

Electromagnetic Field (EMF): Invisible lines of force created whenever electricity is generated or used. EMFs are produced by power lines, electrical wiring, and electric equipment and appliances. The frequency of EMF is measured in Hertz (Hz, or cycles per second).

Electromagnetic Radiation (EMR): Electrical and magnetic energy emitted by various types of energy sources such as radio waves, microwaves, light, X-rays, and nuclear energy and sometimes expressed or measured in photons (particles) or as waves.

Extremely Low Frequency (ELF): The ITU designation for electromagnetic radiation (radio waves) with frequencies from 3 to 30 Hertz, and corresponding wavelengths of 100,000 to 10,000 kilometers, respectively. In atmospheric science, an alternative definition is usually given, from 3 Hz to 3 kHz.

Kilowatt kW: A unit for measuring power that is equivalent to 1000 watts.

Megawatt (MW): A unit for measuring power that is equivalent to 1,000,000 watts, or 1000 kilowatts.

Megawatt Hour (MWH): A megawatt hour is equal to 1000 kilowatt hours (kWh). It is equal to 1000 kilowatts of electricity used continuously for one hour.

Off grid solar energy system: Solar panels or solar energy systems that are not integrated with utility grid power system.

Person: A natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer, or employee thereof. "Person" does not include any governmental organization.

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

Private Solar Energy System: Solar energy system where the primary purpose is to generate power for on-site personal residential or business use. Private solar energy systems are not subject to regulation under this Ordinance.

Rated nameplate capacity: The maximum rated output of electrical 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 Commercial Solar Energy Systems (SES).

Section 10. RELATIONSHIP WITH OTHER ORDINANCES

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

Section 11. SEVERABILITY

Should any section or provision of this Ordinance be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Section 12. ENFORCEMENT

This Ordinance shall be enforced by the Select Board or their designee. Violations of this Ordinance shall be subject to the enforcement and penalty provisions of 30-A.M.R.S. § 4452, as amended.

A. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

B. Code Enforcement Officer (CEO)

The Code Enforcement Officer (CEO) is authorized and shall have the authority to enforce all provisions of this Ordinance, including obtaining fines, injunctive relief, and reasonable attorney's fees and costs pursuant to 30-A M.R.S. § 4452. If the CEO shall find any provision of this ordinance is being violated, he shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, or structures, and abandonment of nuisance conditions. A copy of such notice shall be maintained as a permanent record by the Planning Board.

C. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Select Board, upon notice from the CEO, may institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of Whiting.

The Select Board, or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines with court action. Such agreement shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized select board member and there is no evidence that the applicant acted in bad faith, or unless removal of the structure or use will result in a threat or hazard to public health and safety, or real results in substantial environmental damage.

D. Appeals

Except as otherwise stated herein, the Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or CEO in the administration of this Ordinance. Such hearing shall be on a *de novo* basis and shall be held in accordance with State laws. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or CEO only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

Section 13. AMENDMENTS

- A. An amendment to this Ordinance may be initiated by the Select Board or Planning Board, provided a majority of them have so voted, or, by written petition conducted in accordance with 30-A M.R.S. § 2522, as amended. Such amendments shall not become effective until approved by Town Meeting.

Section 14. EFFECTIVE DATE

This ordinance will be enacted on ___/___/20___, following the approval by the voters of the Town of Whiting and shall take effect immediately thereafter.

Date Approved: _____

Attested: _____ Sydney Pressley, Town Clerk

Janice Bronson, Selectperson

Steven Pressley, Selectperson

Robert Curtis, Selectperson
