

# **Town of Patten**

## **Solar Energy Systems Ordinance**

### **Section 1. Title**

This Ordinance shall be referred to as the “Patten Solar Energy Systems Ordinance”.

### **Section 2. Purpose**

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

- 2.1 Establish clear guidelines, standards, and time frames for the Town to regulate Solar Energy Systems;
- 2.2 Permit the Town to fairly and responsibly protect public safety;
- 2.3 Minimize any potential adverse effects of solar development on surrounding land use;
- 2.4 Provide for the decommissioning and removal of solar collectors and associated utility structures that are no longer being used for energy generation and transmission purposes; and
- 2.5 Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural, scenic, and agricultural resources of the Town.

### **Section 3. Applicability**

Solar Energy Systems (SES) are subject to location and permitting requirements as set forth in this Ordinance.

- 3.1 An 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, unless otherwise stipulated herein.
- 3.2 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.
- 3.3 A permit issued pursuant to this Ordinance may not be transferred without notice to, and approval by, the Planning Board and Select Board. If a transfer is approved, all conditions of the original permit will be binding upon subsequent permit holders.
- 3.4 Application for an SES shall be submitted on application forms provided by the Town. Completed application form(s), required fees, and the required plans and related

information shall be submitted to the Code Enforcement Officer, who shall forward it to the Planning Board within thirty-five (35) business days. The determination whether an application is complete will be made and issued by the Patten Planning Board within thirty-five (35) business days.

See Table 1 for general information.

**Table 1**

\*See “Section 4. Definitions” and “Section 5. Application and Permit Fee” for detailed descriptions.

Scale of SES	Ground-Space definitions	Power definitions	Application fee	Permit fee
Industrial Solar Energy Systems (ISES)	> 2 acres (87,120 square feet)	> 500 kW	\$2,500	\$1.00 per kW
Commercial Solar Energy Systems (CSES)	> 3,000 square feet < 2 acres (87,120 square feet)	> 31 kW, < 500 kW	\$500	\$1.00 per kW
Residential-Business Solar Energy System (RBSES)	< 3,000 square feet	< 31 kW	\$150	\$1.00 per kW with a minimum fee of \$25
Private Residential Solar Energy Systems (PRSES)	< 2,000 square feet (Additional terms apply)	< 21 kW	Subject to terms of Patten Building Code	No permit fee required

Note: Stipulations above, including fees, subject to Review and Revision by the Planning Board no longer than every three years

**Section 4. Definitions**

Airspace: The above-ground region that encompasses the entire area of the property or lot proposed or utilized for the SES.

SES Permit Holder: Any person, party, or business entity that has been issued a Town of Patten SES Permit for the purpose of developing, constructing, testing, operating, maintaining,

repairing, leasing, owning, or using the SES as approved under the Town of Patten Solar Ordinance.

Solar Collector: Any type of means of collecting solar energy.

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.

Industrial Solar Energy Systems (ISES): Any SES with a total area projected over the ground equal to or greater than 2 acres (87,120 square feet) or that generates a nameplate capacity of 500 kW or greater is an ISES. Multi-investor ownership (see definition) is also included in this definition.

Commercial Solar Energy Systems (CSES): Any SES with a total area projected over the ground equal to or greater than 3,000 square feet but less than 2 acres (87,120 square feet), or that generates a nameplate capacity of 31 kW or more, but less than 500 kW is a CSES. Multi-investor ownership (see definition) is also included in this definition.

Private Residential Solar Energy Systems (PRSES): A PRSES is any SES with a total area projected over the ground less than two thousand (2,000) square feet in surface area, with a rated nameplate capacity of less than 21 kW, and which is designed, engineered and constructed to primarily provide electrical power directly the residential property on which it is constructed, and does not provide electrical power directly to any structure or use away from the residential property on which it is constructed, and delivers any excess electrical energy not used on premises only to an electrical transmission and distribution system through a grid-tied or similar system under the terms of a signed Customer Net Energy Billing Agreement as defined in M.R.S.A Title 35-A: § 3209 or related statutes. An SES licensed under this definition which later is modified so that it fails in one or more ways to comply with this definition shall be re-classified to a higher class, and subject to the rules covering that class of SES. Multi-investor ownership (see definition) is also included in this definition.

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 (ISES, CSES, RBSES, PRSES).

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 but may require additional engineering certification to document the ability of the roof to support it (ISES, CSES, RBSES, PRSES).

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 continuously for one hour.

Multi-investor ownership: For purposes of this ordinance, and for other considerations by the Town, including the ability of the town to impose and collect property and personal taxes, and

notwithstanding any ownership and financing arrangements of the applicant, the calculation of total area projected over the ground and the calculation of total rated nameplate capacity shall be the sums of the total area and a rated nameplate capacity of all individual Solar Related equipment which collectively makes a single connection to an electrical power transmission and distribution system.

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

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

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

Solar Farm: See Solar Array.

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.

Structure: Any building, construction, or Solar Related Equipment.

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**

### 5.1 Application Fee:

5.1.1 Industrial Solar Energy Systems (ISES). The Application Fee is \$2,500.

5.1.2 Commercial Solar Energy Systems (CSES). The Application Fee is \$500.

5.1.3 Residential-Business Solar Energy System (RBSES). The Application Fee is \$150.

5.1.4 Private Residential Solar Energy Systems (PRSES). For the purpose of assessing application fees for Private Residential Solar Energy Systems, the SES shall be considered an Accessory Structure or Use as defined in the Town of Patten Building Code Ordinance, if applicable, and any application fee shall be assessed accordingly.

### 5.2 Permit Fee:

5.2.1 \$1.00 per kW, with a minimum fee of \$25, for ISES, CSES, and RBSES.

5.2.5 There is no permit fee for PRSES.

## **Section 6. Specific Application Requirements**

The application must include the following, at the cost of the applicant:

6.1 Name, address, and telephone number of applicant, property owner, SES owner, and SES operator.

6.2 Detailed description of technical and financial capacity to construct, operate, and maintain the proposed SES.

6.3 Evidence of applicant's right, title, and interest in subject property, including any easements necessary for construction and access. If the permit holder will be leasing the land, a copy of the agreement 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,

6.4 A copy of the project summary, electrical schematic, and site plan to be delivered to the Fire Chief as well as a signed waiver acknowledging that in the event of a fire at the SES, the Town of Patten and the Patten Fire Department have no liability beyond containing said fire to the property.

6.5 A description of how and to whom the energy produced will be sold.

6.6 A copy of the agreement and schematic details of the connection arrangement with the electrical power transmission and distribution system, clearly indicating which party is responsible for various requirements and how they will be operated and maintained.

6.7 Certification that the layout, design, and installation shall conform to applicable industry standards, and shall comply with manufacturers specifications as well as 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.

6.8 A description of the solar collectors to be installed, including make and model, and associated major system components.

6.9 A construction plan and timeline, identifying known contractors, site control and anticipated online date.

6.10 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. Additionally, such plans shall include efforts to promote beneficial flora and fauna (e.g. honeybees, butterflies, etc.) as well as a commitment to not using pest-control substances (e.g. pesticides, herbicides, fungicides, and/or insecticides).

6.11 An emergency management plan for all anticipated hazards, including fire protection.

6.12 A stormwater management plan, certified by a professional engineer licensed in Maine, 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.

6.13 A background noise measurement for the site location as performed by a qualified professional.

6.14 Proof of financial capacity to construct and operate the proposed facility.

6.15 A decommissioning plan, including:

6.15.1 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.

6.15.2 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.

6.15.2.1 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 and Select Board.

6.15.3 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: solar collector removal, solar collector foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.

6.15.4 At the time of approval of a proposed SES, and prior to starting construction of an SES, the applicant must guarantee to cover the costs of removal of the facility.

6.15.4.1 The amount of the guarantee shall be equal to the estimated SES removal cost provided by a licensed professional engineer; or an estimate provided by a professional array construction company.

6.15.4.2 These estimates to be provided by the applicant.

6.15.4.2.1 An updated estimate shall be provided by the applicant to the town every five (5) years from the date of the permit issued, using these types of estimate sources.

6.15.4.2.2 If the estimated cost increases more than 15% from the previous estimate, the facility owner shall provide additional security in the amount of the increase.

6.15.4.3 Type and contents of guarantee – Interest Bearing Escrow Account.

6.15.4.3.1 A cash contribution equal to the estimated removal cost shall be made by either a certified check made out to the Town of Patten and deposited into a savings account, or the purchase of a certificate of deposit.

6.15.4.3.1.1 For any account opened by the applicant, the Town of Patten shall be named as the owner or co-owner, and the consent of the Town of Patten shall be required for a withdrawal.

6.15.4.3.1.2 Any interest earned on the escrow account shall be returned to the applicant unless the town has found it necessary to draw on the account, in which case, the interest earned shall be proportionally divided between the amount returned to the applicant and the amount withdrawn to perform the necessary work.

6.15.4.4 Type and contents of guarantee – Performance Bond.

6.15.4.4.1 A performance Bond shall detail the condition of the bond, the method for release of the entire bond or portions thereof to the Town of Patten, and the procedures for collection by the Town.

6.15.4.4.2 The bond documents shall specifically reference the SES facility for which approval is sought.

6.15.4.5 A bank holding a savings account of certificates of deposit, and a company issuing performance bonds, must be established institutions licensed to operate in the State of Maine.

6.16 In addition to the application, for an Industrial Solar Energy Systems (ISES), or a Commercial Solar Energy Systems (CSES) Permit, other elements may be required by the general Town of Patten ordinances and codes.

## **Section 7. Standards for Approval**

In addition to any application for any SES permit, the following standards must also be met:

## 7.1 Industrial Solar Energy Systems (ISES) and Commercial Solar Energy Systems (CSES):

7.1.1 Lots – SES shall not exceed 20% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground.

7.1.2 Legal Responsibilities – The Applicant must demonstrate that is had authorization to construct, use and maintain the property and any access drive for the life of the project, including the decommissioning of the project. The roles and responsibilities of the permit holder, system owner, operator, landowner and any other party involved in the project must be clearly described. The permit holder of a Gound Mounted Solar Energy System shall build and maintain it in compliance with all relevant Federal, State, and Local Laws, Regulations, and Ordinances.

7.1.3 Recording – All approved permits for Industrial Solar Energy Systems (ISES) and Commercial Solar energy Systems (CSES) shall be recorded at the Penobscot County Registry of Deeds within seven (7) calendar days of approval and before project construction may begin.

7.1.4 Setback and Dimensions – Structures within a SES shall be set back a minimum of 200 feet from all lot lines. Any solar collector device shall be a maximum height of 15 feet when oriented at a maximum tilt above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings as per Town of Patten ordinances and codes. Within the 200-foot setback, any proposed or existing SES abutting a public use trail or roadway must provide and maintain a gravel roadway 25 feet in width and within 100 feet of the security fence to serve as a fire break and permit public use travel. Structures within a SES shall be set back a minimum of 500 feet from Management Class 2 lakes, as indicated in the Land Use Planning Commission’s Land Use Guidance Maps, and a minimum of 250 feet from Management Class 4 and Class 5 lakes, as well as other natural waterways, such as streams, rivers and ponds.

### 7.1.5 Prohibited Locations -

7.1.5.1 An ISES or CSES shall not be located within one-quarter mile of State Route 11, nor the Scenic Byway.

7.1.5.2 Components of a ground-mounted SES shall not be placed within any stormwater conveyance system, or that could impact an adjacent property’s water supply (i.e. a domestic well) or septic system.

7.1.6 Utility Notification – No grid-intended photovoltaic system shall be constructed or 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.



7.1.7 Fence – Ground Mounted Solar Energy Systems shall be enclosed by a perimeter fence. Such fences shall consist of a fence bottom at a minimum 6” height above the ground to allow for small wildlife passage and movement.

7.1.8 Signage – A sign shall be required to identify the permit holder 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 any fence surrounding the SES informing individuals of potential voltage hazards.

7.1.9 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 from any adjacent property that is residentially zoned or used for residential purposes, as well as from any public way. The screen shall consist of a vegetative barrier which provides 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.

7.1.10 Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures, public or private ways, or any otherwise non-SES associated property.

7.1.11 Noise – No noise generated by the SES or Solar Related Equipment shall be 10 decibels (dB) greater than the preconstruction/exiting 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 a.m.

7.1.12 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. Other than required lighting, lighting shall not be used or visible between 9:00 p.m. and 7:00 a.m.

7.1.13 Stormwater Management Plan – A stormwater management plan shall be developed for the site for pre and post development conditions, including impervious assessment.

7.1.14 Utility Connections – Reasonable efforts shall be made to place all utility connections from the solar collector installation 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.

7.1.15 Emergency Services – SES permit holder shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the permit holder 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 permit holder to be used to allow emergency service personnel continuous access. All means of shutting down the solar energy system shall be clearly marked. The permit holder shall identify a responsible person for public inquiries throughout the life of the system.

7.1.16 Maintenance Conditions – The SES permit holder 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 permit holder shall be responsible for the cost of maintaining the SES and any access road(s), including regular plowing of snow to maintain road access.

7.1.17 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.

7.1.18 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.

7.1.19 Alternative Assessment – Should a proposed ground-mounted SES fail to meet the standards in 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.

7.1.20 Preservation of Town’s Character – All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via visual consistency with the local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

7.1.21 Liability Insurance Requirement – Permit holder shall provide evidence of a minimum \$1 million liability insurance policy.

7.1.22 Other elements may also be required by the general Town of Patten ordinances and codes.

## 7.2 Residential-Business Solar Energy System (RBSES) or Private Residential Solar Energy Systems (PRSES):

7.2.1 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.

7.2.2 Setback – Structures within a SES shall be setback a minimum of 50 feet from the side, front, and rear property lines. Any solar photovoltaic cells, arrays, or other solar collector type components shall be subject to a maximum height of 15 feet when oriented at maximum tilt above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings as per Town of Patten Ordinances and codes. Structures within a SES shall be set back a minimum of 500 feet from Management Class 2 lakes, as indicated in the Land Use Planning Commission’s Land Use Guidance Maps, and a minimum of 250 feet from Management Class 4 and Class 5 lakes, as well as other natural waterways, such as streams, rivers and ponds.

7.2.3 Prohibited Locations – Components of a ground-mounted SES shall not be placed within 100 feet of any stormwater conveyance system, nor constructed in any other manner that could impede stormwater runoff from collecting in a constructed stormwater conveyance system, or that could impact an adjacent property’s water supply (i.e. a domestic well) or septic system.

7.2.4 Signage – Solar energy systems shall not be used for displaying any advertising.

7.2.5 Screening – Lots on which Ground Mounted Solar Energy Systems are located may, at the direction of the Planning Board and the Code Enforcement Officer, be required to utilize buffers/screening from roads and residences by plantings, berms, and natural topographical features. If deemed required, ground mounted SES shall be screened from view of any adjacent property that is used for residential purposes, as well as any public way. The screen shall consist of a vegetative barrier which provides 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 Patten Planning Board (PPB).

7.2.6 Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures, public or private ways, or any otherwise non-SES associated property.

7.2.7 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. Other than required lighting, lighting shall not be used/visible between 9:00 p.m. and 7:00 a.m.

7.2.8 Preservation of Town’s Character – All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via visual consistency with local neighborhood area, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

7.2.9 Liability Insurance Requirement – Permit holder shall provide evidence of a liability insurance policy.

### 7.3 Roof Mounted Solar Energy Systems:

7.3.1 The terms of this ordinance assume a ground-mounted SES unless otherwise stipulated.

7.3.2 The permit holder shall provide evidence certified by an appropriately license professional, e.g. engineer or building inspector, that the roof is capable of supporting the collateral load of the SES.

7.3.3 SES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings as per Town of Patten Ordinances and codes.

7.3.4 Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures, public or private ways, or any otherwise non-SES associated property.

7.3.5 On roofs with chimneys, panel layout and design shall ensure that adequate access is provided to chimneys and vents for cleaning, maintenance, and firefighting. At a minimum, this should provide direct unimpeded access over the surface of the roof to the chimney or vent in such a way that it will not damage the panels. This may be over the unencumbered side of the roof, or by a 3-foot lane below and beside the chimney or vent sufficient to allow placement of a roof ladder. Sufficient clearance should be provided from the peak for movement of firefighters along the peak and placement of roof ladder hooks.

7.3.6 Preservation of Town’s Character – All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

## **Section 8. Decommissioning and Removal**

8.1 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 permit holder shall complete removal of the installation no more than 180 days after the date of discontinued operations. The permit holder shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

8.2 Decommissioning and removal shall consist of:

8.2.1 Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;

8.2.2 disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and

8.2.3 stabilization or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the permit holder to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.

8.3 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. The SES entity is required to submit an annual report of power generation to the Town of Patten. Determination of abandonment shall be made by the Code Enforcement Officer.

8.4 If the permit holder 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 discontinuation of operations, the Town of Patten retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous, or decommissioned SES to be removed.

## **Section 9. Modifications**

9.1 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.

9.2 Any modifications to an Industrial Solar Energy Systems (ISES) or Commercial Solar Energy Systems (CSES) made after issuance of the required town permit(s) shall require approval by the Planning Board.

9.3 Any modifications to a Residential-Business Solar Energy System (RBSES) or Private Residential Solar Energy Systems (PRSES) made after issuance of the required town permit(s) shall require approval by the Code Enforcement Officer and the Planning Board.

9.4 Application fees for modifications shall be based upon the overall size of the SES, not solely the modification, as determined by the Planning Board.

9.5 Permit fees for modifications shall be based on the modified portion of the SES.

## **Section 10. Authority**

10.1 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).

10.2 The Patten Planning Board (PPB) is vested with the authority to approve, approve with conditions, approve with a variance, or reject any application for a Solar Energy System (SES) as defined in this ordinance.

10.3 The PPB may hire independent professional consultants to review SES applications to determine:

10.3.1 The impact to nearby properties,

10.3.2 public safety implications, or

10.3.3 address other issues with a SES application.

10.4 The cost (if any) for such professional consultancy shall be borne by the applicant. PPB will notify the applicant with the consultant's name and qualifications, the reason for the consultation, and the estimated cost. The PPB will work with the applicant to arrange a payment schedule for this cost.

10.5 Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation or ordinance, the more restrictive provision shall apply.

10.6 This ordinance shall not in any way affect compliance with any other Town of Patten ordinance.

10.7 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.

#### **Section 11. Effective Date and Duration**

This Ordinance shall take effect on April 13, 2023, upon enactment by a Town of Patten Town meeting unless otherwise provided and shall remain in effect until it is amended or repealed.

#### **Section 12. Enforcement Violations and Penalties**

12.1 This Ordinance shall be enforced by the 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.

Approved by the Patten Planning Board on February 16, 2023.

Approved by the Patten Select Board on March 7, 2023.

Approved by the Town of Patten residents on April 13, 2023.

Attest: True Copy

  
Town Clerk