Lucerne in Maine Village Solar Ordinance

Section 1: Purpose

The purpose of this solar ordinance is to accomplish the following objectives:

1. To protect public health and safety.
2. To promote the general welfare of the community.
3. To meet the goals of the Lucerne Comprehensive Plan.
4. To conserve the environment, wildlife habitat, fisheries and natural areas.
5. To fit these systems harmoniously into the fabric of the community by providing standards for solar arrays.
6. To preserve the beauty and visual landscape of scenic or aesthetic value as determined by the Planning Board in accordance with the objectives of the Comprehensive Plan and the Official Zoning Map.

Section 2: Authority

The Lucerne Planning Board is vested with the authority to review and approve, approve with conditions, or reject any application for Solar Energy Systems as defined in this Ordinance.

1. The Lucerne Planning Board reserves the right to hire independent third-party consultants to review Solar Energy System proposals in order to determine the impact to surrounding properties or public safety implications or resolve any other issues regarding the proposal.
2. If the Lucerne Planning Board requires expert opinions, advice or testimony during the review of the application, it will use due diligence to obtain and utilize free services from governmental or non-profit sources.
3. Should the Lucerne Planning Board be unable to obtain and utilize free services, it shall require the applicant to pay for such services after notifying the applicant of the name of the expert, the area of qualification of the expert, the purpose for which the expert is required, and the approximate cost of the expert.
4. The applicant shall be provided with the opportunity to meet with the Lucerne Planning Board to arrange a schedule for payment of the cost.
5. The applicant shall have the right to request a public hearing before the Appeals Board to determine if the expert selected by the Lucerne Planning Board, is necessary to resolve any issues before the Board and if the approximate costs of the expert are reasonable.
6. The applicant shall request the hearing within 10 days of the receipt of the notice establishing the necessity and cost of any independent third party consultant or such time as is agreed to by the Board and the applicant.
7. It will be the applicant's burden to prove that the requested expert is unnecessary or the cost is not reasonable.

Section 3: Exempt Solar Energy Systems

The following Solar Energy Systems are exempt from this Ordinance provided they meet all requirements of this Ordinance as outlined in Section 5:

1. Roof mounted arrays on any legally permitted residential or residential accessory structure if not within shoreland zone.
2. Ground or pole mounted arrays for private use with a panel area of no more than 500 sq ft. if not within shoreland zone.
3. Repair or replacement of Solar Energy System components that do not enlarge the area of the existing array.
4. Solar Energy Systems on cellular towers.

Section 4: Zoning Districts

The following zoning districts are where Solar Energy Systems will be allowed subject to all requirements of securing site plan approval and building permits:

1. Resource Protection (Water)	No
2. Resource Protection (Slopes)	No
3. Growth 1	Yes, with Planning Board approval
4. Growth 2A	Yes, with Planning Board approval
5. Growth 2B	Yes, with Planning Board approval
6. Rural Residential	No*
7. Shoreland Zone	Yes, limited to structure & Lucerne Planning Board approval

* A Solar Conditional Use Permit may be approved by the Lucerne Planning Board after review of the application, which allows a parcel of land or property to be used in a manner that deviates from generally accepted activities in that area.

Restrictions: No ground based solar panels are permitted within 250 feet of the shoreland zone.

Section 5: Site Plan Review and Performance Standards

5.1 Standards of Residential Zoned Systems

(a) Residential zoned systems per the Village of Lucerne's definitions will be size 0 to 5000 square feet

5.2 Standards for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems

(a) Roof-mounted and building-mounted solar energy systems and equipment are permitted by right, unless they are determined by the Code Enforcement Officer to present one or more unreasonable safety risks, including, but not limited to, the following:

(i) Weight load;

(ii) Wind resistance;

(iii) Ingress or egress in the event of fire or other emergency; or

(iv) Proximity of a ground-mounted system relative to buildings.

(b) All solar energy system installations shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA1) adopted by the town.

(c) All wiring shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Electrical Code (NFPA 70) adopted by the town.

(d) Prior to operation, electrical connections must be inspected and approved by the Electrical Inspector.

5.3 Additional Standards for Medium- and Large-Scale Ground-Mounted Solar Energy Systems

In addition to the standards in [Sec. 5.1], medium- and large-scale ground-mounted solar energy systems shall comply with the following:

(a) Utility Connections: Overhead or pole-mounted electrical wires shall be avoided to the extent possible within the facility.

(b) Safety: The solar system owner or project proponent shall provide a copy of the Site Plan Review application to the Code Enforcement officer for review and comment.

(c) Visual Impact: Reasonable efforts, as determined by the Lucerne Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening abutting properties, or other appropriate measures, including adherence to height standards and setback requirements.

(d) Land Clearing, Soil Erosion, and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances. Ground-mounted facilities shall minimize mowing to the extent practicable. Removal of mature trees shall be avoided to the extent possible. Native, pollinator-friendly seed mixtures shall be used to the extent possible. Herbicide and pesticide use shall be minimized. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.

(e) Fencing: Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.

(f) Removal: Solar energy systems that have reached the end of their useful life or that have been "abandoned" as defined with this Ordinance shall be removed by the owner. The owner or operator shall physically remove the installation no more than 365 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(i) Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.

(ii) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(iii) Stabilization or re-vegetation of the site as necessary to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.

(g) Abandonment:

(i) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year.

(ii) If the owner or operator of the solar energy system fails to remove the installation within 365 days of abandonment or the proposed date of decommissioning, the Town retains the right to use all available means to cause an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system to be removed.

5.4 Additional Standards for Large-Scale Solar Energy Systems

(a) Large-scale ground-mounted solar energy systems shall not be considered accessory uses.

(b) Operations and Maintenance Plan: The project applicant shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

(c) Signage: A sign shall be placed on the large-scale solar energy system to identify the owner and provide a 24-hour emergency contact phone number.

(d) Emergency Services: The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall cooperate with the Fire Department in developing an emergency response plan. All means of shutting down the system shall be clearly marked. The owner or operator shall provide to the Code Enforcement Officer the name and contact information of a responsible person for public inquiries throughout the life of the installation.

All non-exempt Solar Energy Systems must be approved through the Lucerne Planning Board site plan process.

5.5 The following requirements are to be included along with the site plan.

1. Site Plan stamped and certified by a Maine registered engineer.
2. Proof of right, title, or interest, such as ownership, easement, lease or purchase option for the location being considered.
3. A site location map which shows the boundaries of the proposed facility, property boundary lines, contiguous properties under the total or partial control of the applicant, any significant resource or historic sites within one (1) mile of the proposed development and any significant wildlife habitat (per Me. DEP under the Site Location of Development Act and/or the Natural Resource Protection Act) which may be impacted.
4. There shall be written evidence in the form of letters copies that all applicable State regulatory agencies with jurisdiction over the project have been notified of the pending application and the location of all system components covered by this application.
5. A description of the proposed facility to include all non-proprietary manufacture's specifications for the solar panels, components, controls, and other equipment, sound emission levels, normal and emergency operational shutdown procedures, the number and individual ratings of panels in the Solar Energy System and/or modules, and the

aggregate generating capacity of the total system. A description of all associated facilities shall also be included.

6. A revegetation plan for any cleared areas with appropriate plantings that are native to the region where the facility is decommissioned.
7. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) whose minimum requirements meets the standards in Section 6, below. Such plan must be filed in the Hancock County Registry of Deeds prior to the first operation of the Solar Energy System.
8. A Waste Stream Management Plan (WSMP) for the demolition waste and debris at the Solar Energy System site, including but not limited to cardboard, wood, metal, scrape wire and clearing and grading waste. Information on the amount of material that is being recycled shall be included in the WSMP.
9. Proof that abutting property owners have been notified by certified mail by the applicant at least fifteen (15) days prior to the initial Board or CEO consideration. The cost of notification shall be borne by the applicant. The notice shall indicate the time, date and place of the Board or CEO consideration. Public Hearings may be called at the discretion of the Board or CEO. If a Public Hearing is scheduled, a notice will be posted by the Town/Village at least fifteen (15) day prior to the hearing, and shall include the date, time, and place of the hearing.
10. All applicants shall facilitate onsite visits by the CEO and/or the Planning Board as requested.

5.6 Supplemental plan information

In addition to the Village of Lucerne's application requirements, the applicant shall submit the following supplemental information as part of a site plan application:

(i) A site plan showing:

(1) Property lines and physical features, including roads, for the project site;

(2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

(3) 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;

(4) Documentation of the major system components to be used, including the panels, mounting system, and inverter(s);

(5) Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners, if any; and

(6) A one- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods.

(7) Locations of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife or Village of Lucerne, or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitat as identified by the Maine Natural Areas Program.

(8) Locations of wetlands and waterbodies.
(9) Locations of “Prime Farmland” and “Farmland of Statewide Importance”.
(10) Locations of floodplains.
(11) Locations of local or National Historic Districts.
(12) A public outreach plan, including how the project proponent will inform abutters and the community.

Section 6: Review Processes

(a) For projects that are subject to permitted uses, Code Enforcement will review the application and make final determination in a timely fashion.
(b) For all projects that require Site Plan Review, the following administrative procedures shall take effect:
(i) Prior to submitting an application and the start of the review process, a pre-application conference is recommended. The conference is initiated by the applicant and is scheduled with the applicant and a member of the planning staff to discuss pertinent requirements.
(ii) The applicant shall submit the required number of copies of their application at least seven days in advance of the meeting when the project is scheduled for a Lucerne Planning Board agenda.
(iii) Applications are processed in the order in which they are received.
(iv) In a timely fashion, the applicant will be notified if their application is complete or incomplete. If it is incomplete, a list of outstanding items will be sent to the applicant via email or letter. Each time revisions are submitted on an incomplete application, the Lucerne Planning Board has time between regularly scheduled meetings to review the revised materials and to make a determination of completeness.
(v) Once an application is deemed to be complete, the project will be reviewed by the Lucerne Planning Board for compliance with the ordinance standards.
(vi) When the project is scheduled for a Lucerne Planning Board agenda, the Lucerne Planning Board will disperse the application to all parties that are interested.
(vii) The applicant or a duly authorized representative should attend the Lucerne Planning Board meeting to discuss the application.

Section 7: Guarantee for Removal

At the time of approval of a proposed Solar Energy System, and prior to initiating construction of any Solar Energy System within the Village of Lucerne, the applicant must guarantee the costs for removal of the facility.

1. The amount of the guarantee shall be equal to the estimated removal cost, provided by the applicant and certified by a professional civil engineer licensed in Maine or a professional Solar Energy System construction company.
2. The owner of the facility shall provide the Planning Board with an updated revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine or a professional Solar Energy System construction company every 5 years from the date of the permit issued.

3. If the cost is increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase.
4. Type and contents of guarantee:

A performance bond shall detail the condition of the bond, the method for release of the entire bond or portions of the bond to the Village of Lucerne, and the procedures for collection by the Village. The bond documents shall specifically reference the Solar Energy System facility for which approval is sought.

Section 8: Decommissioning and Abandonment

1. The lessee of the facility, or the owner of the parcel if there is no lessee, will do the following as a minimum to decommission the project:
   A. Remove all non-utility owned equipment, conduits, structures, fencing and foundation to a depth of at least four (4) feet below grade.
   B. Remove all graveled areas and access roads unless the owner of the leased property requests in writing for it to stay in place.
   C. Restore the land to a condition reasonably similar to its condition before development, including replacement of top soil removed or eroded.
   D. Revegetate any cleared areas with appropriate plantings that are native to the region according to the approved site plan unless requested in writing by the owner of the property to not revegetate due to plans for agricultural planting or other development subject to site plan review.
2. All removal and decommissioning shall occur within 12 months of the facility ceasing to operate.
3. Abandonment will occur as a result of any of the following conditions unless the lessee or owner of the facility or property notifies the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility within Thirty (30) days of the following events.
   A. The land lease ends
   B. The solar energy system has not operated for twelve (12) months
   C. The solar energy system is damaged and will not be repaired or replaced.

   A notice of intent to maintain and reinstate the operation of the facility shall be updated every six (6) months with a statement of the progress made towards that goal.

   If the facility has not returned to operational condition within two (2) years from the date of the first notice of intent to maintain and reinstate the operation of the facility the Code Enforcement Officer shall find the facility has been abandoned unless there is documentable evidence that the process has had significant progress and in the Code Enforcement Officer's opinion is likely to be completed in a timely manner.

4. Upon determination of abandonment based on the forgoing, the Code Enforcement Officer shall notify the party or parties responsible by certified mail or by hand delivery with a signed receipt, that they must remove the facility and restore the site to its condition prior

to development within one (1) year of notice by the CEO. A copy of the notice shall be forwarded to the Overseers.

A. In the event the lessee of the facility fails to remove the Solar Energy System and components as outlined above, the landowner shall remove the facility within ninety (90) day of notice by the CEO.
B. In the event the landowner fails to remove the facility as stated above the Village of Lucerne shall have the facility removed at the expense of the landowner.
C. Any unpaid costs associated with the removal after one (1) year of removal shall be enforced as a tax lien placed on the property of the array site.

Section 9: General Standards for All Solar Energy Systems

1. Solar Energy Systems legally constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance, unless they are expanded.

2. Unless otherwise specified though a written contract or agreement, a copy of which is on file with the Code Enforcement Office, the property owner of record will be presumed to be the responsible party for owning and maintaining the Solar Energy System.

3. Approval under this Ordinance is conditional upon compliance with all other provisions of the Land Use Ordinance, the Maine Plumbing and Electrical Codes, Natural Resource Protection Act, Site Law, Stormwater Management Law, or other applicable regulations and any requirements of the local utility if any Solar Energy System is to be connected to any existing electrical grid.

4. A Solar Energy System shall not be constructed until the Site Plan has been approved by the Lucerne Planning Board and a building permit has been issued by the Code Enforcement Office.

5. The array site shall not display any permanent or temporary signs, writing, symbols, logos or any graphic representation of any kind except appropriate manufacturer's or installer's identification and warning signs.

6. Solar Energy System placement must be designed to minimize or negate any solar glare onto nearby properties, airports, or roadways.

7. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

8. Any point of potential contact of people or animals with generated electric current must be secured.

9. The boundaries of any Solar Energy System that borders any road or residential dwelling lot shall have a vegetated buffer. The vegetated buffer shall extend the width of the required setback, and additionally along any fencing that may be erected. Existing vegetation shall be used to satisfy these requirements where possible, and additional vegetation must be planted where necessary. No vegetation or fencing shall interfere with a required clear sight at any driveway or intersection.

10. Berms with vegetation are encouraged as a component of any buffer and the Planning Board may allow up to 25% reduction in the required buffer width with a berm.

11. If electric storage batteries are included as part of the array system, they must be installed according to all requirement set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed in accordance with the laws and regulation of the State of Maine any other applicable laws and regulations relating to solid, special, or hazardous waste disposal.

12. In general, large Solar Energy Systems, that are not exempt as discussed in Section 3 of this Ordinance, and which have significant visual impact and detract from the natural landscape of the community will not be approved. The Lucerne Planning Board is responsible for evaluating this aspect of the facility site plan, regardless of the proposed Solar Energy Systems compliance with other provisions of this ordinance.

Section 10: Application/Permit Fees

1. Applications shall be accompanied by an application fee as outlined in the Fees Policy, as well as a fine for non-compliance established by the Overseers.
2. Permits shall be renewed yearly from the date of Lucerne Planning Board approval, or upon change of ownership. Any changes to the site will need to be addressed at this time
3. An operational permit fee of as outlined in the Fees Policy will be paid each year on July 1 after the first year based on installation type.
4. If solar installation is found to be non-compliant it will be removed based on section 7

Section 11: Expiration of Permit

1. Permit will expire within one (1) year of the date of issuance unless work thereunder has commenced.

2. If work is not completed within two (2) years for the date of issuance, and a new application may be needed. The CEO shall make determinations regarding commencement and completion.

3. All permits will expire upon decommissioning.

Section 12: Definitions

Solar Energy System(s) - A solar system made for the conversion of energy from sunlight into electricity, either directly using photovoltaics (PV), indirectly using concentrated solar power, or a combination.

Solar Array- Combining several solar panels creates an array, which is part of your solar system.

Facility- in this case, a solar facility where solar power is produced.

Berm - A flat strip of land or earth that can be dirt, mulch, grass covered dirt, chipped wood that is a minimum size of 12 inches and a maximum size of 24 inches high.

Solar Classification per size:

Residential - 0 to 5000 square feet

Small - 5000 to 15000 square feet

Medium - 15000 to 87000 square feet

Large - 87000+ square feet

Height of building - The vertical measurement from grade to the highest point of the building, except that utility structures such as chimneys, TV antennae, HVAC systems, and roof-mounted solar energy systems shall not be included in this measurement, nor shall any construction whose sole function is to house or conceal such structures.

Mounting - The manner in which a solar PV system is affixed to the roof or ground (i.e., roof mount, or ground mount.

Power - The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc. in Alternative Current (AC).

Solar Array - Multiple solar panels combined together to create one system.

Solar Collector - A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.