

SITE REVIEW ORDINANCE  
FOR THE  
TOWN OF VASSALBORO

as Revised and Adopted June \_\_\_\_, 2023

DRAFT

CERTIFIED BY: \_\_\_\_\_

Town Clerk

# SITE REVIEW ORDINANCE

## Table of Contents

SECTION	TITLE	PAGE
I	PURPOSE	3
II	APPLICABILITY	3
III	REVIEW AND APPROVAL AUTHORITY	3
IV	CLASSIFICATION OF PROJECTS	4
V	APPLICATION PROCEDURE – MINOR	4
VI	APPLICATION PROCEDURE – MAJOR	6
VII	SITE PLAN CONTENT – MINOR	7
VIII	SITE PLAN CONTENT – MAJOR	9
IX	PERFORMANCE STANDARDS – MINOR	11
X	PERFORMANCE STANDARDS – MAJOR	12
XI	PERFORMANCE STANDARDS FOR COMMERCIAL SOLAR ENERGY SYSTEMS	16
XII	PERMITS	20
XIII	GENERAL PROVISIONS	21
XIV	ADMINISTRATION	22
XV	ADMINISTRATIVE APPEALS	22
XVI	VIOLATION, ENFORCEMENT, AND FINES	22
XVII	VALIDITY/SEVERABILITY/CONFLICT WITH OTHER ORDINANCES	23
XVIII	AMENDMENTS	23
XIX	EFFECTIVE DATE	23
XX	DEFINITIONS	24

## **SECTION I. PURPOSE**

The purpose of this Site Plan Ordinance is to promote public health, safety, and general welfare by requiring plans to be submitted to, reviewed, and approved by the Planning Board. The purpose of such review shall be to ensure orderly, beneficial, and environmentally sound development and the most appropriate use of land in keeping with the purposes of the general area in which a development is proposed.

## **SECTION II. APPLICABILITY**

- A. This Ordinance shall apply to all new uses, and structures, new construction, alterations and substantial enlargement to existing uses and structures for commercial, retail, industrial, and institutional purposes.
- B. This Ordinance shall apply to all Commercial Solar Energy System applications filed with the Town of Vassalboro Planning Board after June \_\_\_\_, 2023.
- C. This Ordinance does not apply to detached single and two-family dwelling units, multiple family dwelling units consisting of three (3) or more units along with accessory uses and structures thereof, agricultural land management or forest land management practices, or home occupations as defined in Section XX.
- D. This Ordinance shall also apply to any commercial, retail, industrial or institutional activity that commenced prior to the adoption of this Ordinance and is discontinued for more than 90 (ninety) calendar days.
- E. This Ordinance also applies to any seasonal, commercial, retail, industrial or institutional activity which commenced prior to the adoption of this Ordinance and is discontinued for more than 1 (one) year.

## **SECTION III. REVIEW AND APPROVAL AUTHORITY**

This ordinance is enacted pursuant to the provisions of Article VIII, Part 2, §1 of the Maine Constitution and the provisions of Title 30-A MRSA § 3001 (*Home Rule*).

The Planning Board is authorized to review and act on site plans for both Minor and Major developments as defined below in "Classification of Projects". In considering Site Plans under this section, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions. All conditions must be specific and included as part of the final permit's approval.

Minor changes in approved plans to address field conditions may be approved by the CEO provided that such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing by the CEO on the approved plan.

#### **SECTION IV. CLASSIFICATION OF PROJECTS**

The Planning Board shall classify each project as a minor or major development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information may be required.

- A. Minor Developments shall include:
  - 1. Projects involving the construction or addition of fewer than five thousand (5,000) square feet of gross developed area.
  - 2. Projects involving the conversion of existing uses or structures five thousand (5,000) square feet or less from one use to another without enlargement of the gross developed area.
  
- B. Major Developments shall include:
  - 1. Projects involving the construction or addition of five thousand (5,000) or more square feet of developed area.
  - 2. Projects involving the conversion of existing buildings or structures five thousand (5,000) square feet or more from one use to another without enlargement of the developed area.
  - 3. Other projects requiring review which are not classified as minor developments.

#### **SECTION V. APPLICATION PROCEDURE – MINOR**

- A. Persons seeking Site Plan approval shall file with the Planning Board the completed “Minor Site Plan Application” and required site plans in such quantity as requested by the CEO or planning board. Such filing must meet the specifications of this Ordinance. The Planning Board shall immediately refer copies of such plans to the Code Enforcement Officer. The filing of required plans with the Planning Board shall constitute filing of an application for Site Plan Review.
  
- B. The applicant shall be required to notify all abutting property owners by mail with return receipt requested, that a Site Plan has been filed, and the date, time, and place of the meeting when the application will be considered. For notification purposes, the East Vassalboro Water Company is considered to be an abutting property owner to all projects located on parcels wholly or partially within their Wellhead Protection Area as mapped by the Maine Drinking Water Program.

- C. The application shall be filed with the Planning Board for review and accompanied by the application fee established by the Select Board. Within thirty (30) days of the filing of an application, the Planning Board shall notify the applicant, in writing, either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. Plans and/or applications missing required information may be tabled to a later time pending submittal of missing information.

After the Planning Board has determined that a complete application has been filed, it shall notify the applicant, in writing, and begin its review of the proposed development.

- D. On all Minor Site Review Applications the Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application. The Planning Board shall publish the time, date, and place of the hearing at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area wide circulation. Applicant must notify the abutting landowners at least fourteen (14) days prior to the hearing, of the date, time, and place of the hearing, and return receipts or signed affidavits will be required to verify their notification.
- E. Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30, M.R.S.A., §241 1, Subsection 3, ( A), (B), (C), (D), and (E ).
- F. The Planning Board may determine that it is necessary to conduct a site visit in order to obtain firsthand knowledge of the site. Written permission for members of the Planning Board and the interested public to enter the property will be necessary. Proper public notice of the site visit must be given to interested parties and abutters since the site visit is technically a meeting. The applicant shall be required to notify all abutting property owners that a site visit is scheduled. Return receipts or signed affidavits will be required to verify notification of all abutting property owners.
- G. Within thirty (30) days of the public hearing or sixty (60) days of receiving the completed application, the Planning Board shall approve, approve with conditions, or dis-approve the application.
- H. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant, in writing, of any action taken and the reason for taking such action.
- I. All time limits provided for in this section may be extended by mutual agreement of the applicant and the Planning Board.

## SECTION VI. APPLICATION PROCEDURE – MAJOR

- A. Pre-application: Prior to submitting a formal application, the applicant or his/her representative shall attend a pre-application conference with the Planning Board. The pre-application meeting shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A.302. No decision on the substance of the plan shall be made at the pre-application conference.

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:

1. The proposed site, including its location, size, and general characteristics;
  2. The nature of the proposed use and potential development;
  3. Any issues or questions about existing municipal regulations and their applicability to the project; and
  4. Any request for waivers from the submission requirements.
- B. Persons seeking Major Site Plan approval shall file with the Planning Board the completed “Major Site Plan Application” and required site plans in such quantity as requested by the CEO or Planning Board. Such filing must meet the specifications of this Ordinance. The Planning Board shall immediately refer copies of such plans to the CEO. The filing of required plans with the Planning Board shall constitute filing of an application for Site plan review.
- C. The applicant shall be required to notify all abutting property owners by mail with return receipt requested, that a Site Plan has been filed. For notification purposes, the East Vassalboro Water Company is considered to be an abutting property owner to all projects located on parcels wholly or partially within their Wellhead Protection Area as mapped by the Maine Drinking Water Program.
- D. The application shall be filed with the Planning Board for review and accompanied by the fee established by the Select Board. Within thirty (30) days of the filing of an application, the Planning Board shall notify the applicant in writing, either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. Applications missing required information may be tabled to a later time pending submittal of missing information..

After the Planning Board has determined that a complete application has been filed, it shall notify the applicant, in writing, and begin its review of the proposed development.

- E. On all Major Site Review Applications the Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application.

The Planning Board shall publish the time, date, and place of the hearing at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area wide circulation. The applicant must notify the abutting landowners at least fourteen (14) days prior to the hearing, of the date, time, and place of the hearing and return receipts or signed affidavits will be required to verify their notification.

- F. Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30, M.R.S.A., §241 1, Subsection 3, (A), (B), (C), (D), and (E).
- G. The Planning Board may determine that it is necessary to conduct a site visit in order to obtain firsthand knowledge of the site. Written permission for members of the Planning Board and interested public to enter the property will be necessary. Proper public notice of the site visit must be given to interested parties and abutters since the site visit is technically a meeting. The applicant shall be required to notify all abutting property owners that a site visit is scheduled. Return receipts or signed affidavits will be required to verify notification.
- H. Within thirty (30) days of the public hearing or sixty (60) days of receiving the completed application, the Planning Board shall approve, approve with conditions, or dis-approve the application.
- I. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant, in writing, of any action taken and the reason for taking such action.
- J. All time limits provided for in this section may be extended by mutual agreement of the applicant and the Planning Board.

## **SECTION VII. SITE PLAN CONTENT - MINOR**

- A. The Final Plan shall be drawn to scale of not less than one (1") inch equals (50') feet, and shall contain the following:
  - 1. Name and address of owner and applicant.
  - 2. Scale and north arrow.
  - 3. Location, dimensions, and acreage of parcel to be built upon.
  - 4. Existing contours at intervals of not more than ten (10') feet and proposed contours at intervals of not more than five (5') feet. The Board may waive this

requirement or require closer contour intervals depending on the nature of the project.

5. Location and names of abutting property owners.
  6. The size, shape, and location of existing and proposed buildings.
  7. The location and dimensions of existing and proposed parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets.
  8. Location of all existing and proposed easements and rights-of-way.
  9. Location and dimension existing and proposed of pedestrian access ways.
  10. Location and size of existing and proposed water and sewer mains, culverts, and storm drains.
  11. Location of existing and proposed outdoor lighting.
  12. Location of natural features such as watercourses, marshes, rock out-cropping, and stands of trees.
  13. Landscape plan showing location and type of existing and proposed plantings and screenings.
  14. Location and size of existing and proposed signs and advertising features. Signs shall be no larger than 3' X 5'
  15. Any other provisions contained in the Town of Vassalboro Subdivision Regulations or Shoreland Zoning Ordinance, whenever applicable.
  16. Due to the nature of the project, the Planning Board may require one or more additional plan contents as specified in the "Site Plan Content – Major", Section VIII.
  17. For projects located wholly or partially within the Wellhead Protection Area of the East Vassalboro Water Company as mapped by the Maine Drinking Water Program, a written statement obtained from the East Vassalboro Water Company indicating that the proposed project will not negatively impact their essential operations.
- B. A narrative, with supporting data, shall be required to address the environmental suitability of the chosen site to support the proposed development. This may require the use of appropriate qualified profession(s). This narrative shall address the standards as listed in Section IX.



- C. An "Operating Plan" detailing type and purpose of business, management structure, hours of operation, number of employees, and a brief explanation of the business process.

## **SECTION VIII. SITE PLAN CONTENT - MAJOR**

- A. The Final Plan shall be drawn to a scale of not less than one (1") inch equals (50') feet, and shall contain the following:
1. Name and address of owner and applicant.
  2. Scale and north arrow.
  3. Location, dimensions, and acreage of parcel to be built upon.
  4. Existing contours at intervals of not more than ten (10') feet and proposed contours at intervals of not more than five (5') feet. The Board may require closer contour intervals depending on the nature of the project.
  5. Location and names of abutting property owners.
  6. The size, shape, and location of all existing and proposed buildings.
  7. The location and dimensions of all existing and proposed parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets. Parking Layout and Design - Off-street parking must conform to the following standards:
    - (a) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
    - (b) All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by access ways not exceeding twenty-four (24) feet in width.
    - (c) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
    - (d) Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
    - (e) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict

pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

7. Location of all existing and proposed easements and rights-of-way.
8. Location and dimensions of all existing and proposed pedestrian access ways.
9. Location and size of existing and proposed water and sewer mains, culverts, and storm drains.
10. Location of all existing and proposed outdoor lighting.
11. Location of natural features such as watercourses, marshes, rock outcropping, and stands of trees.
12. Landscape Plan showing location and type of all existing and proposed plantings and screenings.

Landscaping must be provided as part of site design and may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

13. Location and size of all existing and proposed signs and advertising features.

Freestanding commercial business signs should be placed at right angles to the street so as to be viewed from both directions. Signs shall be no larger than 4' X 8'.

In urban, built-up areas commercial business signs should be placed on the building, unless visibility is impaired and a freestanding sign is the best option.

14. Any other provisions contained in the Town of Vassalboro Subdivision Regulations, or Shoreland Zoning Ordinance, whenever applicable.
15. Any other requirements deemed necessary by the Planning Board based on the nature of the proposed development.
16. For projects located wholly or partially within the Wellhead Protection Area of the East Vassalboro Water Company as mapped by the Maine Drinking Water Program, a written statement obtained from the East Vassalboro Water Company indicating that the proposed project will not negatively impact their essential operation.

- B. A narrative, with supporting data, shall be required to address the environmental suitability of the chosen site to support the proposed development. This may require the use of appropriate qualified professional(s). This narrative shall address the standards as listed in Section X.
- C. An "Operating Plan" detailing type and purpose of business, management structure, hours of operation, number of employees, and a brief explanation of the business process.

**SECTION IX. PERFORMANCE STANDARDS – MINOR**

- A. The Site Plan shall be approved, unless the Planning Board makes a written finding that the applicant is not able to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.
  - 1. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create no hazards to safety.

Internal Vehicular Circulation - The layout of the site must provide for the safe movement of passenger, service and emergency vehicles through the site.
  - 2. The location or height of proposed structures and the proposed uses thereof will not be detrimental to other public or private development in the neighborhood.
  - 3. The provision for on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development.
  - 4. The proposed use will not impose undue burdens so as to exceed the capacity of the sewers, sanitary and storm drains, water, solid waste, fire protection, or other public facilities.
  - 5. The Site Plan provides sufficient information to show that storm water will be adequately drained from the site with no adverse impact on other property or publicly-owned drainage systems.
  - 6. Soil erosion and all other adverse impacts on the soil ground water and surface water shall be prevented. Ground water shall not be adversely impacted in quality or quantity.
  - 7. The provisions for exterior lighting do not create hazards to motorists traveling on adjacent public streets and are adequate for the safety of

occupants or users of the site and such provisions will not damage the value and diminish the usability of adjacent properties.

8. An applicant for Site Plan approval has provided evidence of his financial capability to complete the development as planned.
9. The proposed development will not create safety hazards and will provide adequate access for emergency vehicles to the site, and to all buildings on the site.
10. The proposed development will not adversely affect the use and enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other cause.

## **SECTION X. PERFORMANCE STANDARDS – MAJOR**

A. The Site Plan shall be approved, unless the Planning Board makes a written finding that the applicant is not able to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

1. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create no hazards to safety and will conform to the following:

### Access to the Site:

- a. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- b. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- c. The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty feet, from the intersection.
- d. The intersection of any access/egress drive or proposed street must function at a level which will allow for safe access into and out of the project if at least one thousand (1,000) trips are generated.
- e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if is safe and does not promote shortcutting through the site.
- f. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be

responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

- g. Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- h. The following criteria must be used to limit the number of driveways serving a proposed project:
  - No use that generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

#### Access way Location and Spacing:

Access ways must meet the following standards:

- a. Private entrance/exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- b. Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

#### Internal Vehicular Circulation

- a. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.
- b. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of a vehicle with a wheelbase of 40 feet.
- c. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- d. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- e. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing

vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

2. The location or height of proposed structures and the proposed uses thereof will not be detrimental to other public or private development in the neighborhood.
3. The provision for on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development. The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment and service and storage areas.

Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.

A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:

- Shield neighboring properties from any adverse external effects of the development, or
- Shield the development from the negative impacts of adjacent uses.

The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service loading or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.

4. The proposed use will not impose undue burdens so as to exceed the capacity of the sewers, sanitary and storm drains, water, solid waste, fire protection, or other public facilities.

Storage of Materials - Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces, which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

5. The Site Plan provides sufficient information to show that storm water will be adequately drained from the site with no adverse impact on other property or publicly owned drainage systems.
6. Soil erosion and all other adverse impacts on the soil, ground water, and surface water shall be prevented. Ground water shall not be adversely impacted in quality or quantity. Adequate provisions must be made for the collection and disposal of all storm water that runs off from proposed streets, parking areas, roofs and other surfaces, through a storm water drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.
7. The provisions for exterior lighting do not create hazards to motorists traveling on adjacent public streets and are adequate for the safety of occupants or users of the site and such provisions will not damage the value and diminish the usability of adjacent properties.

Exterior Lighting - The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot-candles at the lot line or upon abutting residential properties.

All exterior lighting, except security lighting, must be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use that is open for business during that period.

Wiring to light poles and standards must be underground.

8. An applicant for Site Plan approval has provided evidence of his financial capability to complete the development as planned. This could include a letter of support from an accredited financial institution or some other means of documenting financial solvency.
9. The proposed development will not create safety hazards and will provide adequate access for emergency vehicles to the site, and to all buildings on the site.
10. The proposed development will not adversely affect the use and enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other cause.

The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.

Sound Pressure Level Limits Using the Sound Equivalent Level of One Minute (leq 1) (Measured in dB(a)Scale)

<u>Abutting Use</u>	<u>7am- 10pm</u>	<u>10pm - 7am</u>
Residential	55	45
Residential in a commercial area	65	55
Public, semipublic and institutional	60	55
Vacant or rural	60	55
Commercial	65	55
Industrial	70	60

Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) 'American Standards Specification for General Purpose Sound Level Meters.'

## **SECTION XI – Performance Standards for Commercial Solar Energy Systems**

- A. The following Application Requirements and Performance Standards shall be considered in addition to those in Section VIII – Application Procedure Major, and Section X, Performance Standards – Major.
  1. Additional Application Requirements:
    - a. Statement of corporate ownership structure and facility operator including full name and address, principals, and qualifications and experience pertaining to public utility projects.



- b. Safety Data Sheets (SDS) for all electrical components being installed.
  - c. Specifications for all electrical components being installed.
  - d. Mapping of Protected Natural Resources (PNR).
  - e. A signed Interconnection Agreement with the local utility.
  - f. A maintenance and emergency management plan for the expected life of the facility.
  - g. Color photographs showing major site characteristics prior to construction.
2. Maximum installed height of panels from ground shall be no more than 16 (sixteen) feet.
  3. Setback. All project activity must conform to the distances noted below:
    - a. A setback of 50' (fifty feet) shall be maintained from protected natural resources. No physical development related to the project and no use in service of the project shall take place within this area.
    - b. A setback of 250' (two hundred fifty feet) from Shoreland Zone waterbodies shall be maintained. No physical development related to the project and no use in service of the project shall take place within this area.
    - c. A setback of 150' (one hundred fifty feet) shall be maintained from property lines.
    - d. A setback of 100' (one hundred feet) from any existing public or private road's right of way shall be maintained.
  4. Buffering. On-site landscaping must provide adequate protection to neighboring properties from detrimental features of the project. Buffering may be required to provide a year-round visual screen in order to minimize adverse impacts. Where a natural buffer does not exist one must be planted consisting of a mix of conifers native to Maine (e.g. white pine, balsam fir, spruce) plus shrubs. Trees shall be a minimum of 4' to 6' tall at time of planting and spaced no more than 20' (twenty feet) apart with shrubs filling the gaps. Plantings shall be in alternating rows so to achieve an effective visual buffer. All plantings shall utilize bark mulch or equivalent material to minimize mortality of plants and promote growth and establishment of plants. A visual buffer shall be maintained over the lifespan of the facility with all plantings that die or are destroyed replaced as soon as growing conditions allow. Vegetated buffers may be located within the setback area as identified in Sec. XI, A-3.
    - a. Residential property – to the greatest extent possible within the required buffer the use of existing, naturally occurring woodland and shrubs shall be utilized to maintain a visual year-round buffer. Clearing within the buffer shall be limited to hazard trees. If such a visual buffer does not exist, a minimum buffer of a 50' (fifty foot) deep strip along an agreed upon section of property line shall be planted per the aforementioned guidelines. Three alternating rows spaced 20' apart shall be deemed to meet the 50' buffer requirement.

- b. Public Roads - to the greatest extent possible within the required buffer the use of existing, naturally occurring woodland and shrubs shall be utilized to maintain a visual year-round buffer. Clearing within the buffer shall be limited to hazard trees. If such a visual buffer does not exist, a minimum of a 30' (thirty foot) deep strip along an agreed upon section of right of way shall be planted per the aforementioned guidelines.
    - c. Where no vegetation can be grown due to unique site conditions, the Planning Board may approve a visual screen consisting of berms, walls, fences, or some combination thereof to achieve the desired screening of the facility. Such structure shall meet the setback as required in this Ordinance.
5. Fencing. A safety fence a minimum of 8' (eight feet) tall shall be installed around the entire project area. Fencing shall be located between any required visual screening and the electrical components of the facility. Fencing shall be "Solid-Lock Fixed Knot Game Fence" or similar and must have 8" to 12" holes at the bottom. Any gate required for maintenance and emergency access shall be equipped with a Knox Box or similar device and key provided to fire and emergency responders. A sign shall be attached near the gate containing name and address of the owner as well as emergency contact information.
6. Operation – The applicant must:
  - a. Install a minimum of 3 (three) ground water monitoring wells at commencement of construction and provide location map to Town. Initial test results shall be filed with the Town.
  - b. Provide field training for fire department personnel once construction is completed but prior to activation. A fire department officer must notify CEO in writing that this has been done.
  - c. Provide written notice to Town at start and completion of construction. Town of Vassalboro Code Enforcement Officer shall conduct a pre-construction site inspection to verify conditions, locations, and dimensions, as identified in the permit. Once construction is complete and prior to operation, the Code Officer shall conduct another inspection to ensure compliance with all ordinance and conditions of the permit are met.
  - d. Provide annual written notice to the Town of inspection and certification that all panels are undamaged and operating as planned.
  - e. Provide written notice to Town within seven (7) days of any damaged or non-operative panels needing repair or replacement and plan of action. Any such panels that will not be repaired or replaced must be removed from the site within 30 (thirty) days of such notice. Town may require a site inspection to assess the extent of damage and if extensive damage is detected, will require an independent environmental assessment in the immediate area to determine if there is any evidence of leaching of elements from the panels.
  - f. If the CEO has reason to believe that the Solar Energy System may be contributing to pollution of the groundwater, the operator may be ordered

to provide current testing results for pollutants as ordered by the CEO. If such results demonstrate pollution from the facility, the CEO may order the facility to take appropriate remedial actions. Prior to any required testing a “testing plan” shall be submitted to the Town for approval.

- g. Typical expected lifespan of solar panels is between 25 and 30 years. If the operator chooses to replace more than 50% of the original panels for the purpose of extending the useful life of the project, a new application must be submitted to the Town for review under the ordinance in effect at that time.

## 7. Maintenance

- a. The owner or operator of any Commercial Solar Energy System shall maintain the facility in good condition. Maintenance shall include but not limited to painting, structural repairs, vegetation control, and integrity of screening and security measures. Mowing and/or vegetation control shall be performed a minimum of twice annually. Use of poison and herbicides on the property is prohibited.
- b. Site access shall be maintained at a level acceptable to the CEO and the Town of Vassalboro Fire Chief. Access road must provide a turnaround adequate for fire apparatus near the gate.
- c. E911 address must be installed at the intersection of the site access road with the Town or State road when construction begins and maintained throughout the operation of the facility.

## 8. Decommissioning:

- a. A Commercial Solar Energy System decommissioning plan for all projects must be submitted to the Vassalboro Planning Board during the application process.
- b. To assure that the necessary funding for 100% of the total cost of decommissioning is in place, the applicant shall submit to the Town of Vassalboro the estimated cost of decommissioning as well as an acceptable form of financial assurance. This may consist of a performance guarantee surety bond, an irrevocable letter of credit, an escrow account, or another form acceptable to the Town. This assurance shall be in the amount of 125% of the applicant’s estimated decommissioning costs as approved by the Town. The Town of Vassalboro shall be named as an obligee under the guarantee. The applicant may apply to the Town of Vassalboro for release of the guarantee at such time as the system and its associated structures are removed to the satisfaction of the Town.
- c. Estimated decommissioning cost must be updated after 7 years and updated every 5 years thereafter. Performance guarantee must be adjusted to maintain the 125% of cost requirement per these estimates.

- d. Updated decommissioning plan and new financial assurance shall be required upon change of ownership and in accordance with any State or local changes.
- e. Any Commercial Solar Energy System that has reached the end of its useful life or ceases to generate power for a period of twelve (12) months, or has been abandoned, shall be removed pursuant to the plan approved by the Vassalboro Planning Board during the application process. Decommissioning must commence within 120 days of discontinued operations and completed within 120 days thereafter. One 60 day extension to either of these limits may be granted by the Town of Vassalboro only if warranted by climate conditions.
- f. The owner or operator shall notify the CEO by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.
- g. Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, Commercial Solar Energy Systems shall be considered abandoned when it fails to generate electricity for more than one year without having first given the written notice to the CEO. Declaration of abandonment shall be made by the CEO.
- h. Decommissioning shall consist of: (1) physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site; (2) disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; (3) tests conducted from each of the ground water monitoring wells with results provided to the State and the Town, and (4) stabilize or re-vegetation of the site as necessary to minimize erosion. Grades within the project area will be restored to post-construction (pre-decommissioning) grades, if needed, and disturbed areas will be reseeded with native seed mix.
- i. If the owner or operator of a Commercial Solar Energy System fails to remove the installation in accordance with the requirements of this section, the Town of Vassalboro retains the right to use the performance guarantee and to enter the property and use any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.
- j. There shall be no storage for more than fifteen (15) days of panels or components on site or in the Town of Vassalboro during decommissioning.
- k. There shall be no recycling activity of panels or components conducted in the Town of Vassalboro during decommissioning.

## **SECTION XII. PERMITS**

- A. Permits required: After the effective date of this ordinance, no person shall engage in any use or construct, alter, or substantially enlarge any structure to which this Ordinance applies without first obtaining a permit. Following the issuance of a permit, if no substantial start is made in construction or in the use

of the property within one year of the date of permit, the permit shall lapse and become void.

- B. The Planning Board may grant up to two (2), six (6) month extensions to the permit if the approved plan conforms to the ordinance in effect at the time the extension is requested and all federal, state and local approvals and permits are current. The permittee's request for an extension must be received at least 30 days prior to the expiration of the permit and include explanations for the request.
- C. Prior to commencing operation the applicant must obtain a signed "Certificate of Compliance" from the CEO that all permit conditions have been met and that any required State or Local permits have been issued. Any deficiencies are to be noted and specific remedies and timetables agreed to in writing. Substantial deficiencies or lack of other necessary permits will prevent startup of operations.
- D. Any change to an approved plan must be reviewed by the CEO. CEO may approve minor changes and submit written approval detailing those changes to the permittee and Planning Board for final approval. Otherwise, a new application will need to be submitted to the Planning Board.
- E. Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes as noted in paragraph D of this section, is subject to further review and approval.
- F. Permits expire for use or structures that are discontinued for more than 90 days, unless the permittee can demonstrate that the discontinuance was for factors beyond his/her control.
- G. Permits expire for seasonal uses or structures that are discontinued for more than 1 (one) year, unless the permittee can demonstrate that the discontinuance was for factors beyond his/her control.
- H. Permits shall be issued to the applicant of record. The permit(s) are not transferable to a new owner. Town must be notified of any change of ownership within 15 (fifteen) days of occurring. New ownership must submit a complete application to the Planning Board within 60 days of this change. Review will be conducted under the terms of the appropriate ordinance in effect at the time of such change.

### **SECTION XIII. GENERAL PROVISIONS**

- A. The Planning Board may modify or waive any of the above application requirements or Performance Standards when the Planning Board

determines that because of the special circumstances of the site or the nature of the project, such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and when such waivers would not adversely affect the abutting land owners and the general health, safety, welfare, and environment of the Town.

- B. The Planning Board shall require proof of ownership of the site or written authority from the owner verifying the applicant's right, title, and interest to develop the site.
- C. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
- D. All construction performed under the authorization of a building permit or certificate of occupancy issued for development within the scope of this Ordinance shall be in conformance with the approved Site Plan.

#### **SECTION XIV. ADMINISTRATION**

- A. The Planning Board of the Town of Vassalboro shall administer this Ordinance.
- B. No building permit or plumbing permit shall be issued by the Municipal Officers or Code Enforcement Officer for any use or development within the scope of this Ordinance until a Site Plan has been reviewed and favorably acted upon by the Planning Board.

#### **SECTION XV. ADMINISTRATIVE APPEALS**

An aggrieved party may appeal any decision of the Board or the Code Enforcement Officer under this Ordinance to the Superior Court within thirty (30) days from the date of the written notice of such decision.

#### **SECTION XVI. VIOLATION, ENFORCEMENT, AND FINES**

- A. Code Enforcement Officer (CEO): It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he shall notify, in writing, the person(s) responsible for such violation. The notification will indicate the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, building, structure, or work being done, removal of illegal building or structure, and abatement of

nuisance conditions. A copy of such notice shall be maintained as a permanent record.

- B. Legal Action: When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the CEO, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunction of violation and the imposition of a fine that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- C. Fine: Any person who continues to violate any provision of this Ordinance, after receiving notice of such violation, shall have committed a civil violation for which fines of \$100 to \$2,500 per violation, plus the Town's legal fees and costs and appropriate remedial action may be ordered pursuant to 30-A M.R.S. § 4452. Each day such a violation is continued is a separate offense.

#### **SECTION XVII. VALIDITY AND SEVERABILITY AND CONFLICT WITH OTHER ORDINANCES.**

- A. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
- B. Conflict with Other Ordinance: Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

#### **SECTION XVIII. AMENDMENTS**

This Ordinance may be amended by a majority vote of the Town meeting. Amendments may be initiated by a majority vote of the Planning Board, or by request of the Board of Selectmen to the Planning Board, or on petition of ten (10%) percent of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a public hearing on any proposed amendment.

#### **SECTION XIX. EFFECTIVE DATE**

The effective date of this revised ordinance is June \_\_\_\_, 2023. The first effective date was June 7, 1986. Past amendments have been accepted in 1987, 1989, 1992, 2003, and 2012.

## **SECTION XX. DEFINITIONS**

- A. **Accessory Use or Structure:** A subordinate use of a building, other structure, or land, or a subordinate building or other structure:
1. Whose use is customary in connection with the principal building, other structure or use of land; and
  2. Whose use is clearly incidental to the use of the principal building, other structure, or use of land; and
  3. That is located on the same lot with the principal building, other structure, or use of land, or on a lot adjacent to such a lot if in the same ownership.
  4. Is part of the same establishment.
- B. **Agricultural Land Management Practices:** Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- C. **Alteration:** Structural changes, rearrangement, change of location, or addition to a building or structure other than repairs and modification in building equipment involving more than twenty-five (25%) percent increase in the overall floor space, or bulk of the building, or structure at any time or in total since the effective date of this Ordinance.
- D. **Buffer –** A natural undisturbed area or an area that is planted with native trees, shrubs, and flowers to create a living area to reduce erosion, noise, and or provide a visible shield. A buffer could also be a fence or berm.
- E. **Building:** Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods, or property of any kind. A building shall include a multiple family dwelling.
- F. **CEO:** Town of Vassalboro Code Enforcement Officer, Code Officer
- G. **Commercial:** Connected with the buying or selling of goods or services or the provision of facilities for a fee.
- H. **Commercial Solar Energy System:** A Solar Energy System, the primary purpose of which is the sale of energy produced by the system to off-site uses or to the utility.
- I. **Developed area:** any site where the existing features (natural features i.e., topography, soils, vegetation, water bodies or resources, floodplains, unique natural features) are modified in some way (i.e., building structures or changing the use of buildings, locating public utilities or water supplies, sewage disposal facilities, locations of curb cuts for driveways) shall constitute a developed area.



- J. Discontinuance: Cessation of use.
- K. Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family including provisions for living, cooking, and eating.
- L. Forest Management Activities: Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation of maintenance of land management roads.
- M. Home Occupations: Home occupation means an occupation conducted within a dwelling unit by a resident thereof which is customarily incidental and secondary to the residential use of the unit which such use does not occupy more than fifty (50%) percent of the dwelling unit devoted to living quarters, except that the area devoted to living quarters shall not be reduced below six hundred (600) square feet by this subsection; which requires no display of goods, no stock in trade, no commodity sold on the premises; not more than two (2) non-residents of the dwelling unit employed, and which does not interfere with the peace and quiet of the neighborhood. The office of a doctor or dentist shall be considered as a home occupation provided that it conforms to the restrictions set forth above.
- N. Industrial: Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.
- O. Institutional: A building devoted to some public, governmental, educational, charitable, medical, or similar purpose.
- P. Multiple Family Dwelling: A building consisting of three (3) or more attached dwelling units designed and intended for long-term occupancy, rather than temporary occupancy as with a hotel or motel.
- Q. Operating Plan – A summary of daily business activities including; purpose of business, management structure, number of full and part-time employees, hours of operation, and a short narrative explaining the business process.
- R. Persons: Means any person, firm, association, partnership, corporation, municipal, or other local government entity, quasi-municipal entity, state agency, educational, or charitable organization or institution or other legal entity.
- S. Planning Board (aka PB): Vassalboro Planning Board
- T. Protected Natural Resource (PNR): Significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection

areas, great ponds or rivers, streams or brooks.

- U. Property Line: A real or invisible line that defines where one property ends and another begins.
- V. Recreational Vehicle: A vehicle or vehicular attachment for temporary sleeping or living quarters for one or more persons which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.
- W. Residential Structure: Any structure used, or suitable for use, as a dwelling such as a single- or multi-family home, mobile home, condominium or townhouse, or a multi-family apartment.
- X. Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.
- Y. Seasonal: Less than or equal to seven (7) months of use.
- Z. Setback – The minimum distance which a building or other structure must be from a street, road, river, stream, property line or any other place which is deemed to need protection. Set back is measured in a straight horizontal line.
- AA. Solar Energy System: a facility whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
- BB. Structure: Anything constructed, erected, or placed in or on the ground, the use of which requires location on the ground or attachment to something on the ground, including but not limited to buildings, mobile homes, recreational vehicles, piers, floats, recreation areas, and parking lots. Boundary walls and fences are not included under this regulation.
- CC. Substantial Enlargement: An expansion of the land area of the development site, volume or square footage of buildings, addition of fixtures or equipment involving more than twenty-five percent (25%) increase in floor space, or the volume of activity by more than twenty-five (25%) percent, at any one time or in total since the effective date of this Ordinance.
- DD. Substantial Start: Completion of thirty (30%) percent of a permitted structure or use measured as a percentage of the estimated total cost. Exterior walls and roof must be completely closed in and finish applied.
- EE. Wetland: Wetlands are areas where water covers the soil, or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. Primary characteristics are: the predominance of wetland vegetation, hydric (wetland) soils, and signs of hydrology.