

An Ordinance to Amend
Waterboro Ordinance
AES Ordinance Article 4 Section 4.14

Note: The symbol of “ * * *” indicates that there is missing text that will remain unchanged, which has been left out of this document for the purpose of brevity. Underlines indicate proposed language to add, and ~~strikeouts~~ indicate proposed removals of language.*

4.14 Alternative Energy Sources

The intent of this ordinance is to establish standards for any Alternative Energy Source to utilize while seeking to establish such facilities in Waterboro. These standards apply to Solar facilities proposed in the town of Waterboro.

4.14.01 Exempt AES

The following are exempt from this Article provided they meet all other requirements of this Ordinance:

- a. Roof-mounted on any Single Family legally permitted residential or residential accessory structure and ground mounted in the back yard of the property and with a height of no more than 15 feet.
- b. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
- c. Repair or replacement of array components that do not enlarge the area of the existing AES.

4.14.02 Site Plan Review

All non-exempt AES must be approved by the Waterboro Planning Board through the Town of Waterboro Site Plan Review and Conditional Use process. The following requirements are additional to all other requirements of the zoning ordinance to be included in the Site Plan and Conditional Use.

- a. A Site Plan stamped and certified by a Maine registered engineer and Maine Licensed Surveyor.
- b. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) whose minimum requirements meet the standards in Section 3, below. Such plan must be filed in the York County Registry of Deeds prior to the first operation of the array.
- c. 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 real estate to not revegetate due to plans for agricultural planting or other development subject to site plan review by the planning board.
- d. Provide a cost estimate(s) for the Construction of the Array as well as for the Decommissioning of the facility in order to establish a bond Letter of credit or other form of surety for the town to hold during the construction process and for the life of the facility toward the decommissioning aspect of the project.

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4.14.03 Abandonment & Decommissioning

- a. All said removal and decommissioning shall occur within Twelve (12) months of the facility ceasing to operate.
- b. Abandonment will occur because of any of the following conditions unless the lessee or owner of the facility or of the parcel notifies the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility within 30 days of the following events:
 1. The land lease ends; or
 2. The system does not function for Twelve (12) months; or
 3. The system is damaged and will not be repaired or replaced.
 4. The developer shall provide a meter tied into the system and CMP pole at the street to show that the system is live.

A notice of the intent to maintain and reinstate the operation of the facility shall be updated every six months with a statement of the progress made towards that goal, delivered to the code enforcement officer.

If the facility has not returned to operational condition within Six (6) months from the date of the first notice of the 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 of significant progress and in the Code Enforcement Officer's opinion the decommissioning is likely to be completed in a timely manner.

- c. Upon determination of abandonment based on the foregoing, the Code Enforcement Officer shall notify the party (or parties) responsible by certified mail or by hand delivery with signed receipt that they must remove the facility and restore the site to its condition prior to development within Twelve (12) months of notice by the Code Enforcement Officer. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Board of Selectmen.
 1. In the event the lessee or owner of the facility fails to remove the array and its components as outlined above, the landowner shall remove the facility within 90 days of notice by the Code Enforcement Officer.
 2. In the event the landowner fails to remove the facility as stated above, the Town of Waterboro shall have the facility removed at the expense of the landowner.
 3. Any unpaid costs associated with the removal after one year of removal shall be enforced as a tax lien placed on the real estate of the array site.

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4.14.04 General Standards for All AES

- a. AES legally constructed prior to the effective date of this Article shall not be required to meet the requirements of this Article, unless they are proposing an expansion.
- b. Unless otherwise specified through a written contract or agreement, a copy of which is on file with the Waterboro Code Enforcement Officer, the property owner of record will be presumed to be the responsible party for owning and maintaining the array.
- c. An AES shall not be constructed until the conditional use application has been approved by the planning board and a building permit has been issued by the Code Enforcement Officer and all time for appeal by others has expired during which no appeal has been filed.
- d. All AES shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference to the code enforcement officer beyond the site, the system owner shall promptly eliminate the disruptive interference or cease operation of the system.
- e. All on-site electrical wires or piping associated with the system shall be installed underground to public-utility company transmission poles, towers and/or lines. This standard may be waived by the planning board if the project terrain is determined to be unsuitable for underground installation if certified by a Licensed Maine Electrical Engineer.
- f. The array site shall not display any permanent or temporary signs, writing, symbols, logos or any graphic representation of any kind advertising the project or it's developer except appropriate manufacturers or installer's identification, warning signs, or other legally required signs.
- g. Array placement must be designed to minimize or negate any solar glare onto nearby properties, active aircraft landing and takeoff zones or roadways.
- h. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or into the night sky. Motion sensor control is required.
- i. Any point of potential contact of people or animals with generated electric current must be secured.
- j. The boundaries of any array that border any road or any abutting lot shall consist of a vegetated buffer the width of the required setback along that border in addition to any fence that shall be erected, active vegetation should be used to satisfy these planting requirements where possible. No vegetation or fence shall interfere with a required clear sight triangle at a driveway or road intersection. Berms with vegetation are encouraged as a component of any buffer.
- k. If electric storage batteries are included as part of any array system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the State of Maine laws and regulations relating to solid, special, or hazardous waste disposal.

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- l. All projects shall have perimeter fencing which secures the site from unwanted intruders. The fencing shall be placed a minimum of 8” off the ground to allow for the safe passage of animals. The fencing shall be gated at the access point and have a Knox box located for emergency access.
- m. Access to the site and throughout the site shall be a minimum of 20’ of travel way in width.
- n. Identified environmental features such as and not limited to wetlands or critical habitat on the site shall maintain a 100’ buffer between any impacts and the resource. If State or Federal regulations require additional buffers then the most restrictive regulations shall apply.
- o. Visual Impact analysis shall be provided for any project which will include:
 1. Plan profile of sight lines from various locations around the facility.
 2. Renderings of the facility from several locations around the neighboring region.