

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

ADOPTED: March 14, 1983

AMENDMENTS: March 10, 1990, March 14, 1992, March 12, 2016, March 10, 2018, March 9, 2019, March 11, 2023

## A AUTHORITY AND PURPOSE

- 1) Authority: This ordinance is enacted in accordance with the provisions of Title 30-A, Maine Revised Statutes Annotated (MRSA), Section 3001: Home Rule.
- 2) Effective Date: This ordinance and any amendments thereto become effective upon passage by the Smithfield Town Meeting. The initial passage/effective date was March 14, 1983. The most recent amendment is dated: **March 11, 2023**.
- 3) Conflict of Provisions: Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance, the provisions of another ordinance, or with state or federal statute, the more restrictive provision shall be enforced.
- 4) Applicability: Except as provided below, this ordinance shall apply to all commercial, industrial, institutional, recreational, and other non-residential development within the Town of Smithfield. This ordinance shall also apply to development of buildings with three or more residential units within them. This ordinance shall not apply to agricultural, forestry, or earth-moving activities that do not result in structural improvements. This ordinance does not apply to single-family or duplex homes, the addition of a single accessory apartment to a single-family dwelling, or the conduct of a home occupation, as defined.
- 5) The purpose of this ordinance is to:
  - a. Encourage originality, flexibility, and innovation in site planning and development;
  - b. Discourage unsafe or inharmonious development by ensuring that structures, signs, and other improvements are properly related to their sites and to surrounding sites, roads, and structures, with due regard to the natural terrain, landscaping, and the built environment;
  - c. Protect and enhance the town's appeal and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial, and industrial properties;
  - d. Stabilize and improve property values and prevent blighted areas;
  - e. Reduce the adverse public safety impacts of development, thereby decreasing the cost of municipal facilities and maintenance;

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- f. Avoid harmful or bothersome external effects of any land use which, by reason of noise, smoke, fumes, dust, odor, glare, or traffic, is likely to create or become a public health nuisance to neighbors or the community at large; and
- g. Help protect the quality of Smithfield's lakes, ponds, streams, and other water resources.

## B PERMIT ADMINISTRATION

- 1) Permit Required: The Smithfield Planning Board shall issue a permit prior to the development of any building or property subject to this ordinance which meets any of the following criteria:
  - a. A single building contains a total footprint area of more than one thousand (1,000) square feet,
  - b. Results in the creation of at least five thousand (5,000) square feet of impervious surface (buildings, driveways, roads, parking)
    - i. A permit is also required for ground mounted Solar Energy Production Facilities in excess of five thousand (5,000) square feet
  - c. Has a structural height of more than thirty-five (35) feet.
  - d. A permit is also required prior to the enlargement or expansion of any existing non-residential development that will exceed these thresholds, or of any non-residential development that already exceeds these thresholds, or for the resumption or re-occupation of use of a non-residential use which has been discontinued for two (2) or more years.
- 2) Exemption
  - a. No permit shall be required under this ordinance for construction of a single-family or two-family house, for a garage or other outbuilding not used for commercial purposes, or for barns or sheds used solely for the housing or storage of field crops, or farm equipment.
    - i. Barns or buildings used solely for the housing of animals or buildings used to grow, such as a greenhouse, are not exempt and require a permit if they will result in the creation of at least five thousand (5,000) square feet of impervious surface in a three (3) year period.
- 3) Permitting Procedure:
  - a. General: Application forms and information on applying, as well as copies of this ordinance, shall be available from the Smithfield Town Office during normal business hours, or from the Code Enforcement Officer.
  - b. Pre-application: It is highly recommended, but not required, that a prospective applicant schedule a pre-application meeting with the Planning Board. The pre-application meeting is intended to provide an opportunity for the applicant to present a concept (sketch) plan to the board, to discuss specific ordinance requirements, or to identify concerns that should be addressed in the application. In order to get on the agenda for a pre-application meeting, the prospective applicant must submit a written sketch plan at least fourteen (14) days prior to a scheduled meeting.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- c. The board's advice at the time of pre-application shall not constitute review or comment on the merits of the application. The board may discuss timing of the application and other state or federal permitting procedures, identify specific additional studies or evaluation to be required in the application, or may grant waivers for submission requirements. The board may also arrange with the prospective applicant to visit the development site for the purpose of gaining a better perspective on the proposal.

## 4) Application Submission and Review:

- a. An application containing all of the submission requirements identified in subsection (C), below, shall be submitted at the town office during normal working hours at least fourteen (14) days prior to a scheduled planning board meeting or 21 days if the commercial is within Shore Land Zone, unless alternative arrangements have been made in advance.
- b. The town office shall provide the applicant with a written receipt of application and fees and shall notify the code enforcement officer and chairman of the planning board of receipt of the application. The town office shall prepare and mail notice of the pending application to all abutters of the property to be developed by certified mail. Notice shall also be placed in a newspaper of general circulation, said notice to appear at least seven (7) days prior to the scheduled planning board meeting.
  - i. If the proposed development is located within five hundred (500) feet of a municipal boundary, the town office shall also provide notice to the town clerk of the adjoining municipality.
- c. The Code Enforcement Officer shall review the contents of the application prior to the planning board meeting. Within seven (7) days of submission of the application, the CEO shall provide the applicant and planning board with a checklist of the items required to be submitted and noting any discrepancies or omissions in the submission.
- d. The planning board will determine whether the application is complete at its next regularly-scheduled meeting, provided that the CEO's review is available no less than seven (7) days prior to the meeting.

***→If the planning board determines that the application is complete, it may immediately commence review on the merits of the application.***

***→If the planning board determines that the application is not complete, it will make a written summary of its determination, itemizing the application elements that are missing or incomplete, and providing the summary to the applicant.***

- e. The Planning Board shall complete their review and render a written decision within sixty (60) days of its determination of completeness, except that the board, with the consent of the applicant, may extend the time period necessary for approval. Consideration of the

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

application shall be conducted in an open, public meeting, with opportunity for public comment at the discretion of the Chairman of the board. However, the board may choose to provide a formal public hearing format if significant comment is anticipated. Notice of the time, date, and place of the public hearing shall be posted at least seven (7) days prior to the hearing.

- f. The planning board shall make written findings of fact prior to action on the application. The application may be approved as submitted, approved with conditions (which shall be stated in writing), or denied. In the event of denial, the reasons for denial shall be stated in writing.

***→Conditions of approval may include, but not be limited to, completion of state or federal permitting requirements, provision of detailed engineering plans, completion of additional legal documents (e.g. easements, rights-of-way), or development of a performance guarantee. If warranted, the board shall set a timetable for a final review phase in which the conditions met shall be removed from the conditional approval.***

- g. When the application is of a complexity that is beyond the capacity of the planning board or town staff to review, the board, after notification to the applicant, shall employ such independent, recognized consultants as necessary, at the expense of the applicant, to assess and advise the board whether the requirements of this ordinance are met. The estimated cost for consulting services shall be placed on deposit with the Town Clerk by the applicant prior to consultants being hired.

## 5) General Application Submissions:

- a. Any site plan application presented for approval shall be accompanied by the application fee. The Board of Selectmen is hereby authorized to set a reasonable application fee on a sliding scale based on the size of the development.
- b. An application shall consist of a drawing or set of drawings and attachments. The drawing(s) shall consist of one (1) copy at a size of 24 x 36, in ink and suitable for signatures, and ten (10) reduced-size copies. The attachments package shall consist of ten (10) copies, except that certain studies and analyses may be provided as a single copy or electronically, as provided below.
- c. Drawing(s) shall include:
  - 1) An approval block, with an appropriate place for the signatures of the planning board.
  - 2) A date, scale, and arrow showing both true and magnetic north.
  - 3) The shoreland zoning district where the premises in question is located, if applicable.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- 4) A perimeter survey, conducted by a professional surveyor or engineer registered in the State of Maine.
- 5) The scaled locations of all existing and proposed buildings, with dimensions.
- 6) All landscaped areas, fencing, and size and type of plant material to be placed upon the premises in question.
- 7) All proposed signs and their size, location, and method of illumination.
- 8) Elevation drawings of any proposed structures in excess of two stories (20 feet), to show their height and bulk.
- 9) All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.
- 10) The location, type, and size of all existing and proposed catch basins, storm drainage facilities, streams, and watercourses
- 11) The location of all existing and proposed utilities, both above and belowground, including water supply wells, subsurface wastewater disposal systems, electric power, fire hydrants or other fire protection systems
- 12) An erosion control plan showing erosion control installations designed in compliance with *Maine Erosion and Sediment Control BMP's* (Maine DEP, 2003 or as revised).
- 13) The scaled location, type, and size of all pedestrian ways, streets, driveways, retaining walls, parking areas, and other site improvements
- 14) All existing or proposed rights-of-way, easements, and other encumbrances which may affect the premises in question.
- 15) Plans and cross-sections of any streets, driveways, or parking areas proposed to be built or improved on the property.
- 16) The location of adjoining streets and property lines of all abutting properties, including those across the street, together with the names and addresses of the owners as disclosed on the tax maps on file in the town office as of the date of the Site Plan Review Application.

d. Attachments to the application shall include:

- 1) The Town of Smithfield Site Review Application Form.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- 2) Indication of the right of the applicant to develop the property, in the form of a deed, lease agreement, purchase and sales contract, option, or other form of exclusive interest.
- 3) A narrative summary of how the project is designed to meet the approval criteria listed in Section 3 of this ordinance.
- 4) An evaluation of the adequacy of water supply for the proposed use, including fire protection needs.
- 5) An estimate of wastewater disposal needs, together with a report signed by a licensed soils evaluator (e.g. HHE-200).
- 6) A summary of the status of all local, state, and federal permits required. Single copies of permit approvals themselves are required before final approval may be granted.
- 7) A cost estimate and proposal for performance guarantee for all public improvements, to include roads, parking areas, landscaping, area lighting, and storm water management structures.
- 8) If any road is proposed to be conveyed to the Town, a detailed design prepared by a professional engineer registered in the State of Maine is required.
- 9) If a storm water management plan is require by the State of Maine, a copy of the plan must be submitted with the application.
- 10) If the development will be in an area of critical wildlife habitat, as identified by the State of Maine *Beginning with Habitat Program* a single or electronic copy of an evaluation of wildlife impacts prepared by a professional biologist is required.
- 11) If the development is in an area previously identified as containing important historic or archeological resources, a single or electronic copy of a professional evaluation is required.
- 12) If the development will require a traffic movement permit from the Maine Department of Transportation, a single or electronic copy of a traffic analysis prepared by a Maine registered professional engineer experienced in traffic analysis, is required.

**→The preceding list is not intended to limit the authority of the planning board to request more detailed or additional information that they deem necessary to a decision on the application.**

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

**→See Section E “Special Development Standards” for additional submission requirements**

**→The planning board is authorized to grant a waiver to the requirement for submission of any items when it finds that the requirement is not necessary to proper consideration of the application. The granting of the waiver must be entered into the minutes of the meeting, along with the rationale for it. The waiver must be granted before the board determines that the application is complete, and preferably at the pre-application meeting.**

- e. Performance Guarantee: Before final approval of an application, the planning board may request a performance guarantee for an amount adequate to cover the total cost or part of the total cost of the public improvements. The performance guarantee may take either of the following forms if approved by the Board of Selectmen:
    - 1. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
    - 2. A performance bond payable to the Town issued by a surety company, approved by the Board of Selectmen.
  
  - g. Revisions to Approved Plans
    - 1. An application for a revision to a previously approved plan shall include enough supporting information to allow the Planning Board to make a decision that the proposed revision meets the review criteria.
    - 2. The Planning Board’s scope of review shall be limited to those portions of the plan which are proposed to be revised, or that are adversely impacted by the proposed revision.
    - 3. If, during the course of consideration the Planning Board determines the revision may result in a greater adverse impact on a waterbody or wetland, or on adjacent properties than the plan previously approved, the board may require the procedure for a new application be followed.
- 6) Appeals
- 1. Appeals involving administrative procedure or interpretation, or the granting or denial of an application shall lie from the decision of the Planning Board to the Board of Appeals and from the Board of Appeals to the Superior Court according to State Law.
  - 2. The Board of Appeals shall not have the authority to grant or deny an application or change the conditions of an application. If the Board of Appeals finds that an error has been made by the Code Enforcement Officer or Planning Board, it shall correct the error and remand the application back to the deciding authority.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

3. All appeals must be made within thirty (30) days of the date of decision.

## C. Review Criteria

An applicant for a Site Review Permit shall demonstrate the proposed use or project meets the review criteria listed below. The Planning Board shall not approve an application unless it makes written findings these criteria have been met. For additional information regarding these criteria, please reference the General Development Standards of this ordinance.

1. The proposal conforms to all the applicable provisions of this Ordinance.
2. The proposed activity will not cause adverse soil erosion or a reduction in the land's capacity to hold water so that an unsound or unhealthy condition results.
3. The proposed activity will not have an adverse impact on wetlands.
4. The proposed activity will not have an adverse impact upon any waterbody such as a lake, pond, or stream.
5. The proposed activity will provide for adequate storm water management.
6. The proposed activity will provide for adequate sewage disposal.
7. The proposed activity will not adversely impact any floodplain areas and will conform to the applicable requirements of the Town of Smithfield Floodplain Management Ordinance, as applicable.
8. The proposed activity has sufficient water available for the current and foreseeable needs of the development.
9. The proposed activities will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
10. The proposed activity will dispose of all solid waste in conformance with all local regulations and that the type and quantity of waste proposed to be sent to Town facilities will not exceed their capacity.
11. The proposed activity will not have a significant detrimental effect on adjacent land uses or other properties, which might be affected by waste, noise, glare, fumes, smoke, dust, odors, or their effects.
12. The proposed activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of existing or proposed highways or roads.
13. The proposed activity to the maximum extent possible will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town of Smithfield, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
14. The proposed activity shall conform to all the applicable requirements of the Town's Shoreland Zoning Ordinance and all other local Ordinances.
15. The Town has the capacity to provide fire and rescue services to the development.
16. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures.



# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

## D. General Development Standards

### Traffic Access

With respect to vehicular and pedestrian circulation (including walkways, interior drives, and parking) special attention shall be given to location and number of access points (especially with respect to intersections schools, other traffic generators, etc.), general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are adequate, safe, and convenient.

Driveway and parking lots must abide by the following standards:

1. Sight Distance. The minimum sight distance for all vehicular accesses onto town roadways are as follows:

Posted speed (MPH)	Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495

2. Driveway width. Unless a waiver is given, driveway widths shall be between 12 and 22 feet inclusive. The width of the driveway is the distance across the driveway excluding radii, parallel to the highway.
3. Corner clearance. Unless a waiver is given, the minimum distance for a driveway to an intersection is 75 feet.
4. Turnaround Area. Driveways must be designed so that all maneuvering and parking of any vehicle will take place off the roadway and such vehicles may exit the driveway without backing out into the roadway. The minimum turn around area shall be 8 feet wide and 22 feet long.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

## **Orientation and Placement of Buildings and Structures**

The layout of buildings, parking lots, and other structures on a site shall be consistent with features of the natural and built landscape, through the use of some or all of the techniques described in this section.

- (a) Utilization of the Site - Buildings, lots, and support facilities should be located and oriented in those portions of the site that have the most suitable conditions for development. The site design should avoid creating a building surrounded by a parking lot.
- (b) Buildings should be placed back from the road so as to conform with the rural character of the area.
- (c) The main entrance to the building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach and should be clearly identified as such through building and site design, landscaping, and/or signage. Site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

## **Landscape**

- (a) The landscape must be preserved in its natural state as far as practical by minimizing tree removal, disturbance, and compaction of soil, and by retaining existing vegetation as far as practical during construction. Extensive grading and filling must be avoided as far as possible.
- (b) Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

Landscaping 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.

## **Air Quality**

Development which will cause emissions of dust, ash, smoke, or other particulate matter likely to damage human or animal health, vegetation, or property must meet all State and Federal Laws. Evidence that relevant state and federal regulatory requirements have been met shall be considered sufficient to meet this standard.

This shall not be construed to regulate dust or odors generated by agricultural practices conducted using accepted Best Management Practices (BMP).

## **Commercial/Industrial Ordinance**

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

No land use or development shall be permitted to produce harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation. The Planning Board shall be reasonable with respect to odors perceptible only for a short duration.

## **Glare**

No land use or development shall be permitted to produce as strong, dazzling light, or reflection of that light, beyond its lot lines onto adjacent properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.

## **Public Utilities**

### 1. Public Water Supply:

The applicant will show evidence that adequate quantity and quality of water will be delivered to the development without negatively impacting groundwater supplies.

### 2. Sanitary Treatment Systems

The development must be provided with a method of disposing of sanitary wastes which is in compliance with the State Plumbing Code.

### 3. Utility Services

(a) The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project.

## **Stormwater Management**

- (a) Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a basic Stormwater Management Plan.
- (b) To the extent possible, the plan must retain stormwater on the site using the natural features of the site and must not have adverse impacts on abutting or downstream properties.
- (c) Stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

- (d) Any project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the permit application at time of application.
- (e) For projects which do not require a DEP Stormwater Management Permit, the use of Low Impact Development techniques, consistent with the publication *Stormwater Management for Maine*, (DEP, January 2006 or as revised) is highly encouraged.
- (f) The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.

## **Erosion Control**

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of Maine Erosion and Sediment Control BMPs, published by DEP (March, 2003 or as revised).

Temporary erosion control measures shall be installed prior to the start of any development. The applicant shall be responsible for the proper installation and operation of all erosion control measures. Permanent measures shall be installed as appropriate upon completion of the development.

## **Noise**

The proposed development shall not cause the background noise level to increase to a generally objectionable level due to intermittent, beat frequency, shrillness, or volume. Sounds emanating from safety signals, warning devices, or emergency pressure relief valves other emergency or public safety devices and temporary noise such as construction activity are exempt from these requirements. Buffering of the development site is encouraged to help meet the noise standards.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

**E. Special Development Requirements:** The following project categories require submissions and performance standards in addition to the “General Development Standards” listed above.

## NON-RESIDENTIAL SOLAR ENERGY-PRODUCING FACILITIES

- 1) **Purpose.** The purpose of this section is to establish additional municipal review procedure and sitting standards for Non-Residential Solar Energy-Producing Facilities (hereinafter referred to as "solar facilities"). These standards are intended to:
  - a) Establish clear guidelines and standards to regulate solar facilities;
  - b) Regulate the development of solar facilities in a manner that minimizes any potential adverse effects on the scenic, cultural, and natural resource character of the Town;
  - c) Provide for the removal of panels and associated solar facility structures that are no longer being used for non-residential energy generation and transmission purpose.
- 2) **Administration and Enforcement.** Regulations related to solar facilities will be administered as an additional level of review along with the provisions of the Commercial Development Review Ordinance.
- 3) **Specific Application Requirements.** In addition to the requirements listed in the Commercial Development Review Ordinance, an application for a solar facility permit must also include the following:
  - a) An additional permit/technical review fee to be set by the Board of Selectpersons shall be payable at the time of application. This fee will be reviewed and amended as necessary on an annual basis. The Planning Board may at its discretion retain independent technical or legal expertise to assist in reviewing or supplementing the evidence presented by the applicant and received during the public hearing. The cost of such assistance shall be borne by the applicant according to the terms of an escrow account set-up at the time the application is submitted as listed in the Permit Fee Schedule established by the Board of Selectpersons.
  - b) A description of the owner of the facility with a copy of the deed, the operator if different, and detail of qualifications and record of accomplishment to run the solar facility. If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party with regard to the solar facility and the life of the agreement,
  - c) A description of the energy to be produced and to whom it will be sold;
  - d) A copy of the agreement and schematic details of the connection arrangement with the transmission facility, clearly indicating which party is responsible for various requirements and how they will be operated and maintained;
  - e) A description of the panels to be installed, including make and model, and associated major facility components;
  - f) A construction timeline, identifying known contractors, site control, and anticipated on-line date;

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- g) A full official land survey of the proposed site. Must include any Rights of way and Easements on the property and be sealed and/or stamped by a Maine licensed professional surveyor.
- h) An operations and maintenance plan, including site control and the projected operating life of the facility;
- i) An emergency management plan for all anticipated hazards;
- j) Proof of financial capacity to construct and operate the proposed solar facility
- k) Name and contact information for solar system installer, and if different, the name, contact information and license number of the supervising Maine licensed electrician;
- l) Written certification by the installer that all electrical components shall be installed in accordance with the National Electrical Code;
- m) Stream crossing detailed design plans;
- n) Maine Inland Fisheries & Wildlife Beginning with Habitat program mapping of high-value plant and animal species habitat on the project parcel and abutting parcels.
- o) A Visual Impact Assessment, an analysis to determine potential visual effect of the solar facility, must be undertaken. In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices, including Sections 4-7, Section 10, and Appendix A of Chapter 315 of the Maine Department of Environmental Protection regulations, Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses (except "Planning Board" replaces "Department"), to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures.
  - i) A visual impact assessment must also include narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.
  - ii) The Visual Impact Assessment must include the following elements:
    - (1) A visual and cartographic analysis (Viewshed Analysis).
      - (a) A geographical representation of all the areas within a minimum of 3 miles of where the solar facility, from its highest points is visible from the surrounding (impact) area shall be presented. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the impact area from which the facility will be visible, including representative and worst-case viewpoints, must be identified. At a minimum, these public recreation, and scenic resources within the boundaries of the Town of Smithfield are to be considered viewpoints for inclusion in this analysis: North Pond and East Pond. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

or imagined, that the eye follows from a specific point to another point when viewing the landscape.

- (2) Site inventory and photographic review. This should provide a comprehensive and objective means by which to analyze and assess the potential visual and aesthetic impacts that may result from the solar facility and its associated elements.
  - (3) Visual simulations. Visual simulations should be provided to show a photo-realistic perspective view of proposed solar facility elements in the landscape, thereby allowing abutters to clearly visualize how a project will really look from their primary residential structure.
- iii) The visual impact assessment must be prepared by a Maine-licensed landscape architect or other design professional trained in visual assessment procedures, or as otherwise directed by the Planning Board.
- p) An application for a solar facility permit must include a decommissioning plan. "Decommissioning" means the full and complete physical removal of all above- and below-ground components of a solar energy facility, including but not limited to solar modules, associated anchoring systems and foundations, other structures, buildings, roads, fences, cables, electrical components, and associated facilities and foundations. Decommissioning plans must include:
- i) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is sold commercially to external customers for a continuous period of 12 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation and commercial sale of electricity, that although the project has not commercially sold electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.
  - ii) An estimate of the total cost of decommissioning and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs must include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization. The cost estimate shall be prepared by a professional civil engineer licensed in the State of Maine and updated every three (3) years from the date of the Planning Boards approval. Cost estimates shall be submitted to the Planning Board for approval.
  - iii) Demonstration in the form of an irrevocable letter of credit from a state or federally regulated bank or credit union, a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account: or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the solar facility the Applicant will have the necessary financial assurance in place for 125% of the total cost of decommissioning. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the development is abandoned or the Applicant or subsequent responsible party fails to meet their

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.

- iv) Transfer of ownership. Upon a transfer of ownership of a commercial solar energy development subject to a decommissioning plan approved under this ordinance, a person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator. New owners must demonstrate to the Planning Board's satisfaction an ability to meet the financial assurance requirement.
- v) Environmental site assessment. The decommissioning plan shall include provisions for conducting a Phase II environmental site assessment adequate to determine if there has been a release or discharge of oil or hazardous substances at or near any transformers, inverters or other equipment containing liquid oil or hazardous substances as defined by State law. Decommissioning shall not be considered complete until such time as the site assessment has also been completed and submitted to the Smithfield Code Enforcement Officer. The environmental site assessment shall be completed in accordance with American Society for Testing and Materials (ASTM) E1903-19, Standard Practice for the Environmental Site Assessments, as revised, and prior to the transfer of ownership or change in use of the facility site. The decommissioning plan will also require a copy of the environmental site assessment be submitted to the Smithfield Code Enforcement Officer within 30 days of completion and include provisions for the reporting of oil or hazardous substance contamination in accordance with State statute to the Maine Department of Environmental Protection.

**4) Standards for Approval.** In addition to the requirements listed under Generally Development Standards, the following standards must also be met:

- a) Siting Prohibition- The development or construction of a solar facility shall be prohibited in the following locations:
  - i) Areas of 20% or greater slope;
  - ii) Areas with elevations above sea level of 550 feet or greater;
- b) Other prohibitions:
  - i) The development or construction of solar concentrating power plants are prohibited; and
  - ii) Transformers and other electrical equipment using halogen or PCB oils as coolants are prohibited.
- c) The solar energy system shall be designed by a Maine-registered electrical engineer.
- d) Legal responsibilities: The Applicant must provide proof of authorization to construct, use, and maintain the property and any access drive for the life of the solar facility and including the decommissioning of the solar facility. The roles and responsibilities of the facility owner, operator, landowner, and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected.
- e) Minimum Setbacks:



# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- i) Solar modules may not be located less than 250 feet from existing public and private road rights-of-way; or in the case of a private road where the location of the right-of-way has not been surveyed and recorded in the Somerset County Registry of Deeds in a deed, subdivision plan, plot plan, or other similar legal document, solar modules may not be located less than 125 feet from the near edge of the current physical location of the private road.
  - ii) Solar modules may not be located less than 250 feet from existing residential dwelling units.
  - iii) Solar modules may not be located less than 125 feet from adjacent property lines, unless a residential dwelling is within 125 feet of the property line, in which case the more stringent setback of 250 feet from the dwelling applies.
  - iv) Transformers and inverters may not be located less than 150 feet from a property line.
- f) Visual screening requirements. The solar facility shall be visually obscured from public and private roads, and residential dwelling units by a vegetative screen or buffer, as determined by the visual impact assessment at zero to ten (10) feet above the road surface and above the ground surface at residential dwelling units, respectively. Additionally, no more than one-half-acre of a solar development may be viewable from North Pond or East Pond waters or from the viewpoints designated in the viewpoint assessment section. Property lines in common with an approved subdivision shall also be provided with visual screening. The screening shall be designed and maintained as follows:
- i) All vegetative screening shall maximize the retention and use of existing, naturally occurring woodland and shrubs, with clearing limited to hazard trees. Clearing of trees and other natural vegetation prior to receiving development approval from the Planning Board is prohibited. The Planning Board may require augmentation of naturally occurring vegetation with plantings of native trees and shrubs to achieve significant visual screening if sufficient density of growth does not already exist. If damaged by weather, fire, or disease at any time over the operating life of the facility, the visual buffer shall be maintained with the planting of trees and shrubs.
- (1) Minimum vegetative screening dimensions:
- (a) 50' in depth along public and private roads.
  - (b) 50' in depth along the common property line(s) with an existing residential dwelling unit that extends along the length of the property line demarcated by a 180-degree arc with a radius of 255' from each corner of the residential dwelling unit. Screening will be provided along the greatest length of property line indicated by this measurement method.
  - (c) Greater depth may be required by the Board to achieve sufficient obscuration when determined to be needed by the visual impact analysis.
  - (d) Vegetative screening is to be provided from any property line in common with a residential subdivision previously approved by the Town of Smithfield. Such vegetative screening is to be a minimum of 50' in depth.
  - (e) On sites which lack existing woodland, a planted vegetative buffer shall be planted to the same dimensions as stated above in this subsection, sufficient to provide year-round screening. The buffer shall consist of a mixture of native conifer tree species (e.g., white

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

pine, balsam fir, white or red spruce, etc.) and understory trees and shrubs. Trees shall be a minimum of 6 feet in height at the time of planting and spaced no more than 30 feet apart, with shrubs and understory trees filling all gaps between the future overstory trees. Trees shall be planted in alternating rows to achieve an effective visual screen from public and private roads and residential dwelling units, as determined by a visual impact assessment. All shrubby plant material shall be at least 3 feet in height at the time of planting and the species selected will grow at least to 5 feet at maturity. A planted vegetative visual screen shall be maintained over the lifespan of the facility with all plantings that die replaced as soon as growing conditions allow.

(f) Where no vegetation can be grown due to unique site conditions, the Planning Board may approve a visual screen consisting of fences, walls, berms, or a combination thereof.

(g) The visual screen shall be planted or installed prior to completion of the development and prior to the start of facility operation.

g) Natural Resource Setbacks and Buffers: The following setbacks and natural vegetation buffers shall be maintained throughout the life of the solar facility from the following natural resources:

i) 250' from the normal high water-line of a great pond as defined by Title 38 M.R.S.A. subsection 480-B of Maine's Natural Resources Protection Act.

ii) 100' setback and buffer of natural vegetation along any rivers, streams, or brooks, except for perpendicular crossings required for vehicle/powerline access. For streams less than 6' wide with less than a 2% slope, stream crossings shall be designed and constructed in accordance with the Maine Department of Transportation's Stream Smart Road Crossing Pocket Guide. Larger stream crossings shall be designed by a Maine registered professional engineer based on the principles of the Maine Stream Smart program.

iii) 250' setback and natural vegetation buffer from habitat of high value plant and animal species as identified and mapped by the Maine Department of Inland Fisheries and Wildlife's Beginning with Habitat program, including but not limited to habitat for state or federally listed endangered species, significant vernal pools, and high or moderate value waterfowl and wading bird habitats.

iv) 75' setback and naturally vegetated buffer from wetlands included in the U.S. Fish and Wildlife Service's National Wetland Inventory.

h) Height: Maximum solar module height, as measured from ground level to a module's highest point at full tilt, shall not exceed 12 feet.

i) Utility Notification: No solar facility shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the local utility to accept the power.

j) Fencing: Provide safety fencing around all solar modules and electrical equipment. Fencing shall be "Solid Lock Game Fence" or of similar design with 8-inch by 12-inch holes at bottom or shall be elevated five (5) inches above ground level to allow small wildlife passage. Fencing shall be located between the required visual screening and the electrical components of the solar facility. Access gates may be located outside the required visual screening.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- k) Signage: Signage shall be required to identify the owner of the solar facility and provide a 24-hour emergency contact phone number. This signage shall not be used for advertising except for reasonable identification of the manufacturer or operator of the solar facility. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the solar facility, informing individuals of potential voltage hazards, including stating the output of power (AC or DC).
  - i) Signage indicating the official e911 address of the solar facility shall also be required to clearly be visible, from both directions of travel, from the public road or roads from which the facility is accessed.
- l) Emergency Services: The solar facility 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 coordinate with local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX" or similar shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the solar facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
  - i) Access roads to the solar facility shall be of sufficient quality and dimensions to satisfy the fire chief that any emergency response vehicles be able to gain access easily and safely to and around the site.
- m) Visual Impact: A solar facility shall not have detrimental effect on the public recreational and scenic resources of Smithfield or significantly degrade the scenic view from abutters' properties. To determine the visual impact of any solar facility, the Planning Board will, using the information provided in the Visual Impact Assessment study, consider the following:
  - i) The significance of the potentially affected public recreational and scenic resources;
  - ii) The existing character of the surrounding area;
  - iii) The expectations of the typical viewer;
  - iv) The project purpose and the context of the proposed activity;
  - v) The extent, nature, and duration of the potential effect of the solar facility's presence on the public's continued use and enjoyment of Smithfield's public recreational and scenic resources. The Planning Board shall consider Smithfield's public recreational and scenic resources to include, but not be limited to, the following: areas of North Pond and East Pond; locations in Smithfield accessible by public road with an elevation of 550 feet or greater.
- n) Vehicle access and electrical transmission routes shall be combined into a single corridor through required vegetative screening and buffers, or shall be co-located in existing rights-of-way, roads, or other existing man-made linear features. Access roads shall have a vehicle travel surface that is no less than 12 feet and no more than 20 feet in width. When the proposed access road is unable to take advantage of an existing man-made linear feature, the layout of the road from a public road into the facility is to include at least one curve or angle such that the access road does not provide a straight line-

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

of-sight of the facility's modules or other equipment. Access roads must be maintained year-round, including snowplowing, to ensure emergency vehicle access.

- o) Herbizides: Use of herbicides to manage vegetation within the development is prohibited. Mechanical means are to be utilized, which may include animal grazing.
- p) Maintenance Conditions: The solar facility owner or operator shall maintain the solar facility and all associated fencing, visual barrier measures and landscaping elements in good functional condition. The owner or operator shall be responsible for the cost of maintaining the solar facility and any access road(s).

## 5) Inspection Requirements:

- a) Project Completion Inspection. Within 30 days of the completion of facility construction and prior to the start of facility operation, a permit and ordinance compliance inspection report by a Maine registered professional engineer shall be conducted and submitted to the CEO, including recommendations for any required remediation measures and a timetable for their implementation.

- 6) **Satisfaction with all Aspects of Capacity and Plans Submitted:** The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the solar facility.

## C VIOLATIONS AND ENFORCEMENT

### 1) Violations

- a. Failure to obtain a permit for activity regulated by this ordinance shall be a violation of this ordinance.
- b. Failure to comply with any conditions of approval subsequent to the receipt of a permit or to build or develop substantially in conformance with the permit granted shall be construed to be a violation of this ordinance.

### 2) Enforcement

- a. Nuisances: Any violation of this Ordinance shall be deemed to be a nuisance.
- b. Code Enforcement Officer:
  - 1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.
  - 2. The Code Enforcement Officer, in the discharge of official duties and with proper identification, shall have authority to enter any building, structure, or premises at reasonable

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

hours to inspect for compliance with permits issued under this ordinance, or to investigate complaints of alleged violations of this ordinance.

3. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, (s) he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions.

4. A copy of such notices shall be maintained as a permanent record.

c. Board of Selectmen: When the action by the Code Enforcement Officer does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.

d. Fines: Any person who violates any provision of this Ordinance shall upon conviction be fined in accordance with the provisions of Title 30-A, MRSA, § 4452. Each day such a violation is continued, after receiving notice of such violation, is a separate offense. Such a person shall also be liable for court costs and reasonable attorney's fees incurred by the Town.

## DEFINITIONS

**Terms not defined herein shall have the customary dictionary meaning. As used in this Ordinance, the following definitions shall apply:**

- 1) Abutter: The owner of property which adjoins the subject property at any point, or which lies directly across a street or way from any portion of the subject property.
- 2) Accessory Structure or Use: A structure or use which is incidental or subordinate to the principal structure or use.
- 3) Agriculture/Forestry: The production, maintenance, or harvesting of plants or animals for sale, lease, or personal use. The practice of agriculture, for the purposes of this ordinance, includes the erection and use of buildings for the storage or sale of goods produced on the premises, but does not include value-added processing or the sale of goods produced off the premises.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- 4) Commercial Use/Activity: The use of land, buildings, or structures other than as a home occupation, for the production of income from the production and sale of goods or services.
- 5) Community-based renewable energy project: a solar energy-producing facility which meets the definition in state statute (Title 35-A, subsection 3209-A) of a "community-based renewable energy project."
- 6) Decommissioning: means the full and complete physical removal of all components of a non-residential solar energy-producing facility, including but not limited to solar panels, associated anchoring systems and foundations, other structures, buildings, roads, fences, cables, electrical components, and associated facilities and foundations.
- 7) Development: Any intentional change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, construction of additions or substantial improvement to buildings or structures, or activities that create an intensification of land use or increased demand for public services.
- 8) Distributed generation renewable energy project: a solar energy-producing facility which meets the definition in state statute (Title 35-A, subsection 3209-A) of a distributed generation renewable energy project.
- 9) Driveway: A vehicular access way serving an individual commercial building or establishment.
- 10) Farmland: means any tract or tracts of land used for commercial farming:
  - a. That consists of 5 or more contiguous acres;
  - b. That is land on which a farm product is produced."Farmland" does not include land used for woodlots, homes, farm buildings, roads, lawns, or any area covered with non-crop vegetation.
- 11) Financial assurance: With specific regard to non-residential solar energy-producing facilities, financial assurance means the demonstration of current and future financial capacity, which must be unaffected by the owner's or operator's future financial condition, to fully fund decommissioning in accordance with an approved decommissioning plan under this ordinance.
- 12) Footprint Area: The amount of land area, in square feet, covered by a structure, exclusive of roof overhangs, but including cantilevered construction, raised decks, and similar building extensions.
- 13) Height: The vertical distance between the base of a building or structure, measured at the average grade level of the foundation, and the top of the structure, exclusive of spires, chimneys, antennae, and similar attachments.

# SMITHFIELD COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

---

- 14) 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; which requires no display of goods, no stock in trade, no commodity sold on the premises; not more than one (1) non-resident of the dwelling unit employed; and which does not interfere with the peace and quiet of the neighborhood. Professional offices (e.g. dentist, attorney, accountant, and realtor) shall be considered a home occupation provided that it conforms to the restrictions set forth above.
- 15) Impervious Surface: Any hard-surfaced, constructed area that does not readily absorb water, including, but not limited to, building roofs, paved or graveled parking and driveway areas, sidewalks, and paved or compacted recreation areas.
- 16) Net metering: means the same as net energy billing (NEB) as defined by the Maine Public Utilities Commission in Chapter 313, titled "Customer Net Energy Billing," of the Commission's regulations, and includes both kWh credit and tariff rate programs.
- 17) Non-residential solar energy-producing facility: any commercial, industrial, institutional, or other non-residential solar energy facility producing electricity with ground-mounted solar modules regardless of total size or power output, including, but not limited to, any facility:
- a. selling power to the regional electric grid
- 18) Public Improvements: Areas of the development which are improved for the benefit of the general public and not directly associated with the principal function of the development. Public improvements include, but may not be limited to, roads, driveways, sidewalks, free-standing lighting, landscape vegetation, and storm water management structures.
- 19) Single-Family and Two-Family Housing Units: A building designed for occupancy by one or two households shall be classified as a single-family housing unit or a two-family housing unit.
- 20) Waiver: Written permission granted by the planning board exempting an applicant from a provision of this ordinance, containing a citation of the provision being waived and the rationale for the action.
- 21) Wetland: Areas which are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under natural circumstances does support, a prevalence of vegetation typically adapted for life in saturated soils.