

Chapter 109
SOLAR ENERGY SYSTEMS ORDINANCE
Damariscotta, Maine

§109.1 AUTHORITY

This Ordinance is enacted pursuant to the authority given the Town in MRSA Title 30-A, Section 3001.

§109.2 PURPOSE

The purpose of this Ordinance is to regulate the size, location and development standards for certain solar energy systems in Damariscotta.

§109.3 APPLICABILITY

- A. This Ordinance shall apply to proposals to construct ground-mounted solar energy systems that exceed 1 acre in panel area. The following solar energy systems are not subject to this Ordinance except as noted.
1. Solar energy systems serving one single-family or one two-family residence.
 2. Roof-mounted solar energy systems.
 3. Ground-mounted solar energy systems that do not exceed 5,000 sf in panel
 4. Ground-mounted solar energy systems between 5,000 sf and 1 acre in panel area except that such systems shall comply with the dimensional requirements of §109.5 and the buffer requirements of §109.7.A.
 5. Ground-mounted solar energy systems that exceed 1 acre in panel area for which at least 50% of the energy generated is consumed by a principal use on the same parcel of land except that such systems shall comply with the dimensional requirements of §109.5 and the buffer requirements of §109.7.A.
- B. Ground-mounted solar energy systems that exceed 5,000 sf in panel area or result in the stripping, grading, removal or filling of earth materials of more than 20,000 square feet in area in the aggregate are subject to Chapter 102, Site Plan Approval.

§109.4 DEFINITIONS

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.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is structurally mounted to the ground.

PANEL AREA – The total area of solar panels based on total airspace projected over the ground.

§109.5 DIMENSIONAL REQUIREMENTS

- A. Ground-mounted solar energy systems shall not exceed 20 acres in panel area.
- B. Ground-mounted solar energy systems shall not exceed 25 feet in height at maximum tilt.
- C. Minimum front setback shall be 50 feet, minimum side setback shall be 50 feet and minimum back setback shall be 50 feet.

§109.6 PERMITTED LOCATIONS

Unless exempted by §109.3.A, solar energy systems that exceed 1 acre in panel area are limited to the Rural and Commercial II Districts.

§109.7 Screening, Security, Maintenance and Regulatory Compliance

- A. Ground-mounted solar energy systems that exceed 20,000 sf in panel area shall be buffered from public roads and residences by plantings, berms, and natural topographical features. Ground-mounted solar energy systems that exceed 2 acres in panel area shall be further buffered such that they are not visible year round from public roads. Vegetation control shall be by mechanical means only. Chemical vegetation control is prohibited.
- B. Lots on which Ground Mounted Solar Energy Systems are located shall be protected by a perimeter fence unless the Planning Board determines pursuant to Site Plan Review that such fencing is not necessary to protect the facility or the public. One or more signs shall be affixed to the fencing identifying the owner of the facility and emergency contact information.
- C. For purposes of emergency services, the owner or operator of a ground-mounted solar energy system shall provide a copy of the project summary, electrical schematic, and site plan to the Damariscotta Fire Chief. Upon request, the owner or operator shall cooperate with the Fire Department in developing an Emergency Response Plan. All means of shutting down the system shall be clearly marked on the plan. The owner or operator shall identify a responsible person to the Code Enforcement Officer and the Fire Chief for public inquiries throughout the life of the installation.
- D. The owner or operator of a ground-mounted solar energy system shall maintain the facility in good condition. Maintenance shall include but not be limited to, painting, structural repairs, vegetation control and integrity of security measures. Site access shall be maintained to a level acceptable to the Damariscotta Fire Chief. The owner or operator shall be responsible for the cost of maintaining the access road(s) unless the road(s) is accepted as a public way.
- E. The owner or operator of a ground-mounted solar energy system shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.

§109.8 PERFORMANCE GUARANTEE

After a ground-mounted solar energy system that is subject to this Ordinance is approved but before a building permit is issued, the applicant shall submit to the Town of Damariscotta a performance guarantee in the amount of 150% of the applicant's estimated demolition cost of the system, subject to a review of such cost by the Code Enforcement Officer. The applicant may apply to the Code Enforcement Officer

for release of the guarantee at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Code Enforcement Officer.

§109.9 DECOMMISSIONING AND REMOVAL

A. A ground-mounted solar energy system that is subject to this Ordinance and that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the Damariscotta Planning Board during the application process. The owner or operator shall remove physically the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

B. 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; and (3) stabilize or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.

C. Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, ground-mounted solar energy systems shall be considered abandoned when it fails to generate electricity for more than one year without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.

D. If the owner or operator of a ground-mounted solar energy system fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of Damariscotta retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.

§109.10 ENFORCEMENT

The Code Enforcement Officer shall be responsible for administering the provisions of this Ordinance, including interpreting the provisions hereof.

§109.11 SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

§109.12 CONFLICTS WITH OTHER ORDINANCES

Whenever a specific provision within this Ordinance conflicts with or is inconsistent with another specific provision within this Ordinance or a specific provision of any other Ordinance, regulation or statute, the more restrictive specific provision shall control.

§109.13 AMENDMENTS

All changes and amendments to this Ordinance must be made at a regular or special Town Meeting of Damariscotta, by a majority of the governing body.

§109.14 ADMINISTRATION

The Planning Board is authorized to review and act on all applications for ground-mounted solar energy systems subject to this Ordinance. In considering applications and plans under this provision, the Board may act to approve, disapprove, or approve with conditions as authorized by these provisions. No municipal permits shall be issued, nor construction work begun on any use or development covered by this Ordinance until the application has been approved by the Board. All work shall be carried out in accord with the documentation submitted and approved by the Board.

§109.15 APPEALS

- A. The Board of Appeals shall have jurisdiction to hear and decide appeals brought pursuant to the enforcement of this Ordinance. Any person or persons aggrieved by the action of the CEO, the Planning Board or any other municipal official in their administration of this Ordinance shall have the right of appeal to the Board of Appeals. Such appeal shall be taken pursuant to the procedures set forth in the Board of Appeals Ordinance. The Board of Appeals shall sit in its capacity as an appellate board, utilizing and applying its procedures in the Board of Appeals Ordinance and such other rules and procedures of the Board as they may apply. Any person or persons aggrieved by the decision of the Board of Appeals shall have the right to appeal to Superior Court. The person or persons filing the appeal shall have the burden of proof.

Legislative History

- Enacted June 8, 2021; Effective June 8, 2021