



TOWN OF KITTERY
Planning and Development Department
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1307

TO: PLANNING BOARD
FROM: BART MCDONOUGH, TOWN PLANNER
SUBJECT: TITLE 16 AMENDMENTS RELATED TO SOLAR ENERGY SYSTEMS
DATE: JANUARY 20, 2022

Below is an overview of the proposed changes relating to solar energy systems:

16.1 General Provisions

Nonconforming structures:

1. Given the excess of legally nonconforming structures in Kittery, the possibility of dimensional standards becoming more restrictive, and the importance of allowing solar energy systems to exist, this provision will allow for such systems to be vested in its use, replacement, and expansion if proven to become less nonconforming.

16.3 Definitions

1. Creates new environmental definitions related to habitat and its inhabitants.
2. Identifies the different scales, type of equipment, and effects of solar energy system.
3. Amends an existing definition of Public Utility Facility so as to clarify that a solar energy system is considered a separate entity and is to be regulated differently.

16.4 Land Use Zone Regulations

1. Indicates the location solar energy systems are to be permitted within the town.
2. For the sake of brevity, a land use table was used to illustrate the use, zoning districts and level of permissibility.

16.5 General Performance Standards

1. Creates two new sections:
 - A. Ground-Mounted; and
 - B. Roof / building integrated solar energy systems
2. Within those sections are performance standards that guide how solar energy systems are built and decommissioned.

16.7 Site Plan Review

1. Establishes the thresholds for review and determines which land use board / permitting entity has jurisdiction.

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Date: January 20, 2022
Draft Edition: 2.0

16.1 General Provisions

1 ***16.1.8.C Nonconformance***

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- b. Nonconforming structure repair and/or expansion.
 - i. The Code Enforcement Officer may approve the repair and/or expansion of a nonconforming structure provided the proposed expansion is not located in the base zone setback of the Shoreland Overlay Zone or at any location in the Resource Protection Overlay Zone and meets either of the following criteria:
 - a. A vertical expansion that follows the existing building footprint;
 - b. Will not result in setbacks less than those existing;
 - c. **Installation or replacement of solar energy systems.**

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16.3 Definitions

1 EXISTING DEFINITIONS AMENDED

2 PUBLIC UTILITY FACILITY

3 Buildings, structures, and facilities, including generating and switching stations, poles,
4 lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and
5 all buildings and structures relating to the furnishing of utility services, such as electric,
6 gas, telephone, water and sewer, to the public. **This definition excludes solar energy**
7 **system facilities.**

8 DEFINITIONS TO BE ADDED

9 10 **BENEFICIAL HABITAT**

11 **An area of land that provides native perennial vegetation and foraging habitat fitting**
12 **for game birds, songbirds, pollinators and other symbiotic species.**

13 **POLLINATOR**

14 **Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and**
15 **includes both wild and managed insects.**

16 17 **SOLAR ACCESS**

18 **Space open to the sun and clear of overhangs or shade so as to permit either or both**
19 **the use of active and passive solar energy systems on individual properties.**

20 21 **SOLAR COLLECTOR**

22 **A solar photovoltaic cell, panel, or array or solar thermal collector device, that relies**
23 **upon solar radiation as an energy source for the generation of electricity or transfer**
24 **of stored heat.**

25 26 **SOLAR ENERGY**

27 **Radiant energy received from the sun that can be collected in the form of heat or light**
28 **by a solar collector.**

29 30 **SOLAR ENERGY SYSTEM**

31 **A device or structural design feature, a substantial purpose of which is to provide**
32 **daylight for interior lighting or provide for the collection, storage and distribution of**
33 **solar energy for space heating or cooling, electricity generation, or water heating.**

34
35

16.3 Definitions

36 **SOLAR ENERGY SYSTEM, ACTIVE**

37 **A solar energy system whose primary purpose is to harvest energy by transforming**
38 **solar energy into another form of energy or transferring heat from a collector to**
39 **another medium using mechanical, electrical, or chemical means.**

40 **SOLAR ENERGY SYSTEM, BUILDING-INTEGRATED**

41 **Photovoltaic materials that are used to replace conventional building materials in**
42 **parts of a building envelope**

43
44 **SOLAR ENERGY SYSTEM, DUAL-USE**

45 **The integration of agricultural production with a photovoltaic system that allows for**
46 **solar energy production while maintaining agricultural activities in such a manner**
47 **that primary agricultural undertakings including animal grazing, crop or vegetable**
48 **production can continue simultaneously on that farmland.**

49
50 **SOLAR ENERGY SYSTEM, EQUIPMENT**

51 **Electrical material, hardware, inverters, conduit, storage devices, or other electrical**
52 **and photovoltaic apparatuses associated with the production of electricity.**

53
54 **SOLAR ENERGY SYSTEM, GLARE**

55 **The effect by reflections of light with intensity sufficient as determined in a**
56 **commercially reasonable manner to cause annoyance, discomfort, or loss in visual**
57 **performance and visibility in any material respects.**

58
59 **SOLAR ENERGY SYSTEM, GROUND-MOUNTED**

60 **An active solar energy system that is structurally mounted to the ground and is not**
61 **roof-mounted nor a component of a building; may be of any size (small-, medium-or**
62 **large-scale).**

63 **SOLAR ENERGY SYSTEM, LARGE SCALE**

64 **An Active Solar Energy System whose physical size based on total airspace projected**
65 **over the ground is greater than 5,000 square feet.**

66 **SOLAR ENERGY SYSTEM, MEDIUM-SCALE**

67 **An Active Solar Energy System whose physical size based on total airspace projected**
68 **over the ground is greater than 1,000 square feet but less than or equal to 5,000 square**
69 **feet.**

70 **SOLAR ENERGY SYSTEM, ROOF-MOUNTED**

71 **An Active Solar Energy System that is mounted on the roof of a building or structure.**

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16.3 Definitions

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73 **SOLAR ENERGY SYSTEM, SMALL-SCALE**

74 **An Active Solar Energy System whose physical size based on total airspace projected**
75 **over the ground is equal to or less than 1,000 square feet**

76 **VEGETATION, NATIVE**

77 **Vegetation that is native to Maine and does not include invasive species.**

78 **VEGETATION, NATURALIZED**

79 **Vegetation that is not native to Maine, but is now considered to be well established**
80 **and part of Maine flora. Naturalized vegetation does not include invasive species.**

81 **VEGETATION MANAGEMENT PLAN**

82 **Either or both a written document and site plan that includes short-and long-term**
83 **site management practices that will provide and maintain native and naturalized**
84 **vegetation, and in the instances of a dual-use application, the reestablishment of prime**
85 **agricultural land in the instance fertile land becomes discontinued from agricultural**
86 **production to accommodate the solar energy system.**

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16.4 Land Use Zone Regulation (Table is for facilitation purposes only)

BASE ZONING DISTRICTS																		
LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Accessory Uses & Buildings																		
Solar Energy System, Building Integrated	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar Energy System, Large-Scale (>20,000-sf.)	SE	SE	-	-	-	-	-	-	-	SE	SE	SE	P	SE	-	-	SE	
Solar Energy System, Medium-Scale	P	P	SE	SE	SE	SE	SE	P	P	P	P	P	P	P	SE	SE	P	
Solar Energy System, Small-Scale	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Solar Energy System, Roof-Mounted	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Community, Cultural & Educational Uses																		
Solar Energy System, Large-Scale (>20,000-sf.)	SE	-	-	-	-	-	-	-	-	-	-	-	P	SE	-	-	-	
LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Agriculture & Animal Care Uses																		
Solar Energy System, Dual-Use	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

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Shoreland Overlay Zone (OZ-250-SL)																		
LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Accessory Uses & Buildings																		
Solar Energy System, Building Integrated	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar Energy System, Large-Scale (>20,000-sf.)	SE	SE	-	-	-	-	-	-	-	SE	SE	SE	P	SE	-	-	SE	
Solar Energy System, Medium-Scale	P	P	SE	SE	SE	SE	SE	P	P	P	P	P	P	P	SE	SE	P	
Solar Energy System, Small-Scale	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Solar Energy System, Roof-Mounted	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Community, Cultural & Educational Uses																		
Solar Energy System, Large-Scale (<20,000-sf.)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Agriculture & Animal Care Uses																		
Solar Energy System, Dual-Use	SE	SE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

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Resource Protection Overlay Zone (OZ-RP)																		
LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Accessory Uses & Buildings																		
Solar Energy System, Building Integrated	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar Energy System, Large-Scale (>20,000-sf.)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Solar Energy System, Medium-Scale	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Solar Energy System, Small-Scale	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Solar Energy System, Roof-Mounted	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Community, Cultural & Educational Uses																		
Solar Energy System, Large-Scale (<20,000-sf.)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

LAND USE	R-RL	R-S	R-KPV	R-U	R-V	R-RC	CON	B-L	B-L1	C-1	C-2	C-3	IND	MU	MU-BI	MU-KF	MU-N	
Agriculture & Animal Care Uses																		
Solar Energy System, Dual-Use	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

16.5 General Performance Standards

1 §16.5.34 Solar Energy System, Ground-Mounted

2 A. Purpose:

- 3 (1) Pursuant to the land use and coastal community resilience goals of the Town
4 of Kittery’s Comprehensive Plan, it is deemed to be in the public interest to
5 promote, integrate and regulate sustainable, renewable, non-polluting energy
6 systems that foster the generation, usage and distribution of clean energy;
7 offset demand from the regional power system, and eliminate fossil fuel
8 dependency and emissions.
- 9 (2) The purpose of this section is to encourage the development of ground-
10 mounted solar energy systems while protecting the health, safety and welfare
11 of the public. The standards herein shall include, but not limited to the site
12 location, development, construction, operation, monitoring, modification and
13 removal of such installations that address public safety, minimize impacts on
14 scenic, natural and historic resources, protect residential neighborhoods and
15 properties, and secure as applicable adequate financial assurance for the
16 eventual decommissioning of installations.

17 B. Applicability and Standards

18 (1) Applicability:

- 19 (a). Notwithstanding the provision of 1 M.R.S.A section 302 or any other
20 law to the contrary, the requirements under §16.5.34 shall apply to all
21 ground-mounted solar energy systems modified or installed after the
22 date of its enactment.
- 23 (b). All solar energy systems shall be designed, erected, and installed in
24 accordance with all applicable local, state and federal codes,
25 regulations and standards.
- 26 (c). Any upgrade, modification or structural change that materially alters
27 the size, placement or output of an existing solar energy system shall
28 comply with the provisions of §16.7.13.C

29 (2) General Standards:

- 30 (a). Small-, medium- and large-scale (<20,000-sf.) solar energy systems
31 shall comply with the following:

- 32 [1] Emergency services: The applicant shall provide, at the

16.5 General Performance Standards

33 minimum, a copy of the project summary, electrical schematic, and
34 site plan to the Code Enforcement Officer and Fire Chief. Upon
35 request, the applicant shall cooperate with the Fire Department in
36 developing an emergency response plan. All means of shutting
37 down the system shall be clearly marked.

38 [2] Fencing: Where fencing is used, fences shall be
39 constructed to the dimensional standards of a Solid Lock Game
40 Fence that consists of 8-inch x 12-inch openings at the fence's base
41 with progressively small openings at the top. An alternative fence
42 may be use that is elevated at a minimum of 5-inches from the
43 ground with the purpose of allowing the passage of small
44 terrestrial animals. Additionally, at least one (1) corner of the
45 fence's perimeter shall have the placement of five-inch or larger
46 diameter wooded escape poles as an alternative means for wildlife
47 escape.

48 [3] Glare: Solar panels are designed specifically to absorb
49 only sun light and are by their very nature less reflective than other
50 varnished or glass exterior housing pieces. Nevertheless, all solar
51 panels shall contain an anti-reflective coating and a copy of the
52 solar panel's design specification shall be provided, which shall
53 include at the minimum data on the amount of glare intended to
54 project from the solar panels. Moreover, the applicant shall submit
55 information demonstrating meaningful consideration to the
56 orientation and location of the solar panels for the purpose of
57 averting the encroachment of solar glare onto abutting properties
58 or roadways to the maximum extent practicable.

59 [4] Land clearing, soil erosion, and habitat impacts:
60 Clearing of natural vegetation shall be limited to what is necessary
61 for the construction, operation and maintenance of ground-
62 mounted solar energy systems or as otherwise prescribed by
63 applicable laws, regulations, and Title 16. Ground-mounted
64 facilities shall minimize mowing to the extent practicable. Removal
65 of mature trees shall be avoided to the extent possible. Native,
66 pollinator-friendly seed mixtures shall be used to the extent
67 possible. Herbicide and pesticide use is prohibited, unless

16.5 General Performance Standards

68 demonstrated by the applicant as unequivocally necessary to
69 manage vegetation growth. No prime agricultural soil or
70 significant volume of topsoil shall be removed from the site to
71 install the ground-mounted system or its appurtenant
72 infrastructure.

73 [5] Laws, Ordinances, and Regulations: The construction
74 and operation of ground mounted solar energy systems in
75 conjunction with their appurtenant structures shall adhere to all
76 applicable local, state, and federal regulations and requirements,
77 including but not limited to safety, construction, electrical, and
78 communication requirements.

79 [6] Natural Resources and Wildlife: No large-scale solar
80 energy system shall be located within areas identified as
81 “Significant Wildlife Habitats” under Maine’s Natural Resources
82 Protection Act nor within critical habitat areas as designated by
83 Maine Department of Inland Fisheries and Wildlife.

84 [7] Safety: If storage batteries are located on site as part of
85 the solar energy system, they shall adhere to the requirements of
86 any applicable fire prevention and building code provision when
87 in use and, when no longer used, shall be disposed of in accordance
88 with applicable federal, state and local laws and regulations.

89 [8] Utility connections: All on-site utility lines, excluding the
90 main service connection at the utility right-of-way shall be
91 underground within the facility unless demonstrated by the
92 applicant to be physically impracticable.

93 (b). Large-scale solar energy systems (>20,000-sf.) shall comply with the
94 following:

95 [1] Emergency services: The applicant proposing a large-
96 scale ground-mounted solar energy system larger shall provide, at
97 a minimal, a copy of the project summary, electrical schematic,
98 and site plan to the Code Enforcement Officer and Fire Chief.
99 Upon request, the applicant shall cooperate with the Fire
100 Department in developing an emergency response plan. All means
101 of shutting down the system shall be clearly marked. The applicant

16.5 General Performance Standards

102 shall provide to the Code Enforcement Officer the name and
103 contact information of a responsible person for public inquires
104 throughout the life of the installation.

105 [2] Financial surety: The deposit, executions, or filing with
106 the Town Clerk of cash, bond, or other form of security reasonably
107 acceptable to the Town of Kittery, shall be in an amount sufficient
108 to ensure the good faith performance of the terms and conditions
109 of the permit issued pursuant hereto and to provide for the
110 removal and restorations of the site subsequent to removal. The
111 amount of the bond or security shall be 125 % of the cost of
112 removal of the large-scale solar energy system and restoration of
113 the property with an escalator of [2] % annually for the life of the
114 solar energy system. The decommissioning amount shall be
115 reduced by the amount of the estimated salvage value of the solar
116 energy system. In the event of default upon performance of such
117 conditions, after proper notice and expiration of any cure periods,
118 the cash deposit, bond, or security shall be forfeited to the Town of
119 Kittery, which shall be entitled to maintain an action thereon. The
120 cash deposit, bond, or security shall remain in full force and effect
121 until restoration of the property as set forth in the
122 decommissioning plan is completed. In the event of default or
123 abandonment of the solar energy system, the system shall be
124 decommissioned as set forth in §16.5.34.B(2)(d) herein.

125 [3] Fencing: Where fencing is used, fences shall be
126 constructed to the dimensional standards of a Solid Lock Game
127 Fence that consists of 8-inch x 12-inch openings at the fence's base
128 with progressively small openings at the top. Alternatively, the
129 Planning Board may modify this standard by permitting a
130 different type of fence that is elevated at a minimum of 5-inches
131 from the ground with the purpose of allowing the passage of small
132 terrestrial animals. Additionally, at least four (4) corners of the
133 fence's perimeter shall have the placement of five-inch or larger
134 diameter wooded escape poles as an alternative means for wildlife
135 escape.

136 [4] Glare: Solar panels are designed specifically to absorb

16.5 General Performance Standards

137 only sun light and are by their very nature less reflective than other
138 varnished or glass exterior housing pieces. Nevertheless, all solar
139 panels shall contain an anti-reflective coating and a copy of the
140 solar panel's design specification shall be provided, which shall
141 include at the minimum data on the amount of glare intended to
142 project from the solar panels. Moreover, the applicant shall submit
143 information demonstrating meaningful consideration to the
144 orientation and location of the solar panels for the purpose of
145 averting the encroachment of solar glare onto abutting properties
146 or roadways to the maximum extent practicable.

147 [5] Land clearing and erosion control: Clearing of natural
148 vegetation shall be limited to what is necessary for the
149 construction, operation and maintenance of ground-mounted solar
150 energy systems or as otherwise prescribed by applicable laws,
151 regulations, and standards within Title 16. Herbicide and pesticide
152 use is prohibited, unless demonstrated unequivocally as necessary
153 to manage vegetation growth. No prime agricultural soil or
154 significant volume of topsoil shall be removed from the site to
155 install the ground-mounted system or its appurtenant
156 infrastructure. Removal of mature trees is discourage and the
157 imposition of mitigation measures or restrictions on tree clearing
158 may be prescribed by the Planning Board in order to prevent
159 habitat fragmentation of existing forested landscapes and to
160 protect hydrological regimes and other essential ecosystem
161 functions. In the instance a site's vegetation is disturbed or must
162 be remove to provide for solar access during the construction of
163 the project, a vegetation management plan is required,
164 demonstrating the creation of a beneficial habitat by using native
165 or naturalized vegetation in all disturbed areas of the site not used
166 to achieve operational efficacy of the solar energy system.
167 Nevertheless, the Planning Board may approve an alternative
168 vegetation plan that uses native or naturalized vegetation, but does
169 not necessarily establish a beneficial habitat.

170 [6] Laws, Ordinances, and Regulations: The construction
171 and operation of ground mounted solar energy systems in
172 conjunction with their appurtenant structures shall adhere to all

16.5 General Performance Standards

173 applicable local, state, and federal regulations and requirements,
174 including but not limited to safety, construction, electrical, and
175 communication requirements.

176 [7] Natural Resources and Wildlife: No large-scale solar
177 energy system shall be located within areas identified as
178 “Significant Wildlife Habitats” under Maine’s Natural Resources
179 Protection Act nor within critical habitat areas as designated by
180 Maine Department of Inland Fisheries and Wildlife. Moreover, no

181 [8] Operation and Maintenance Plan: A large-scale ground
182 mounted application shall include a plan for the operation and
183 maintenance of the proposed large-scale ground-mounted solar
184 energy system, which shall include, but not limited to measures for
185 maintaining safe access to the installation, stormwater controls,
186 general procedures for operational maintenance of the installation
187 and a vegetation management plan.

188 [9] Safety: The solar energy system owner or project
189 proponent shall provide a copy of the site plan review application
190 to the Fire Chief for review and comment. The Fire Chief shall base
191 any recommendations of the application upon review of the fire
192 safety of the proposed system. The solar energy systems shall be
193 maintained in good working order and in accordance with
194 industry standards. Site access shall be maintained, including snow
195 removal at a level acceptable to the Fire Department. If storage
196 batteries are located as part of the solar energy system, they shall
197 meet the requirements of any applicable fire prevention and
198 building code when in use and, when no longer used, shall be
199 disposed of in accordance with applicable federal, state and local
200 laws or regulations.

201 [10] Signage: A sign shall be placed on a large-scale solar
202 energy system to identify the owner and provide a 24-hour
203 emergency contact phone number.

204 [11] Utility connections: All on-site utility lines, excluding the
205 main service connection at the utility right-of-way, shall be
206 underground within the facility unless demonstrated by the
207 applicant to be physically impracticable or as prescribed by the

16.5 General Performance Standards

- 208 **public utility provider.**
- 209 [12] **Use type: Large-scale ground-mounted solar energy**
210 **systems greater than 20,000-sf. shall not be considered as an**
211 **accessory use unless designated as a dual-use system, pursuant to**
212 **§16.5.34.B(2)(c)**
- 213 [13] **Visual Impact: Reasonable effort, as determined by the**
214 **Planning Board, shall be made to minimize undue visual impacts**
215 **by preserving native vegetation, screening abutting properties, or**
216 **other appropriate measures, including adherence to height**
217 **standards and setback requirements. To demonstrate compliance**
218 **with this standard, an analysis of the potential visual impacts from**
219 **the project including solar panels, roads and fencing along with**
220 **measures used to avoid, minimize, or mitigate inappropriate visual**
221 **effects is required. Furthermore, all appurtenant structures,**
222 **including but not limited to equipment, shelters, storage facilities,**
223 **transformers, and substations, shall be architecturally compatible**
224 **with each other.**
- 225 (c). **Additional standards for dual-use solar energy systems:**
- 226 [1] **In addition to the standards under §16.5.34.B(2) the**
227 **following standards shall be followed for dual-use systems:**
- 228 [a] **Dual-use solar energy systems shall be designed**
229 **with the objective of prioritizing primary agricultural**
230 **activity and constructed in a manner that avoids, to the**
231 **extent practicable, the discontinuance of agricultural**
232 **land identified by the Natural Resources Conservation**
233 **Services as “Prime Farmland” or “Farmland of**
234 **Statewide Importance”, or otherwise cause productive**
235 **farmland to be removed from production.**
- 236 [b] **In the instant the applicant satisfactorily**
237 **demonstrates that prime agricultural land is incapable**
238 **for dual-use purposes, a vegetation management plan**
239 **shall be provided to the Planning Board for approval.**
- 240 (d). **Change of ownership, decommissioning, and abandonment of large-**
241 **scale solar energy systems:**

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- 242 [1] Ownership change: If the owner or operator of the solar
243 energy system changes or the owner of the property changes, the
244 approved site plan shall remain in effect, provided that the
245 successor owner or operator assumes in writing all of the
246 obligations of the site plan approval. A new owner or operator of
247 the solar energy system shall notify the Code Enforcement Officer
248 of such change in ownership or operator within 30 days of the
249 ownership change.
- 250 [2] Decommissioning: Solar energy systems that have
251 reached the end of their useful life or are abandoned shall be
252 removed. The owner or operator shall physically remove the
253 installation no more than 180 days after the date of discontinued
254 operations. The owner or operator shall notify the Code
255 Enforcement Officer by certified mail of the propose date of
256 discontinued operations and plans for removal. Notification of
257 discontinuance shall be no less than 180-days prior to the
258 anticipated date of discontinuance. Decommissioning shall consist
259 of the following:
- 260 [a] Physical removal of all solar energy systems,
261 structures, equipment, security barriers, and
262 transmission lines from the site.
- 263 [b] Disposal of all solid and hazardous waste in
264 accordance with local, state and federal waste disposal
265 regulations.
- 266 [c] Stabilization or re-vegetation for the site as
267 necessary to minimize erosion and restore disturbed
268 habitat in accordance with the site's vegetation
269 management plan.
- 270 [3] Absent notice of proposed date of decommissioning or
271 written notice of extenuating circumstances, a large-scale ground-
272 mounted solar energy system shall be considered abandoned when
273 it fails to operate for more than one (1) year without having first
274 obtained the written consent of the Code Enforcement Officer.
- 275 [4] If the owner or operator of the solar energy system fails

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276 to remove the installation within 180 days of abandonment or the
277 proposed date of decommissioning, the Town of Kittery retains the
278 right to use all available means to cause an abandoned, hazardous,
279 or decommissioned large-scale ground-mounted solar energy
280 system to be removed.

281 **(3) Dimensional Standards:**

282 **(c). Small- and medium-scale solar energy systems shall comply with the**
283 **following dimensional standards:**

284 **[1] Setbacks: Notwithstanding any other provision in this**
285 **title to the contrary, the setbacks for ground-mounted solar energy**
286 **systems shall be as follows:**

287 **[a] Minimal front yard:**

288 **1. Residential Zones:**

289 **a. For residential zoning districts, no part of**
290 **the ground-mounted solar energy system**
291 **may be placed closer to the front property**
292 **line (and side property line in a case of a**
293 **corner lot) than the principal structure to**
294 **the street.**

295 **b. In the instance no building nor distinct**
296 **principal building is present on the lot or**
297 **multiple lots, the ground mounted solar**
298 **energy system shall adhere to the base zone**
299 **setback and buffered from the road.**

300 **2. Commercial, Business and Mixed-Use Zones:**

301 **a. Whatever the front yard setback for the**
302 **zoning district, but no less than 10 ft.**

303 **[b] Minimum rear yard:**

304 **1. Whatever the back yard setback for the zoning**
305 **district, but no less than 10 ft.**

306 **[c] Minimum side yard:**

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307 1. Whatever the side setback for the zoning district,
308 but no less than 10 ft.

309 [2] Lot coverage: Solar energy systems that have vegetation
310 or pervious materials underneath are exempt from lot coverage
311 standards.

312 [3] Height: No taller than 10-ft. in height or a height equal
313 to ½ the distance to the nearest lot line, to a maximum of 20-ft.

314 [4] Additional setbacks may be required to mitigate visual
315 and functional impacts.

316 (d).Large-scale solar energy systems shall comply with the following
317 dimensional standards:

318 [1] Setbacks: Notwithstanding any other provision in this
319 title to the contrary, the setbacks for ground-mounted solar energy
320 systems shall be as follows:

321 [a] Minimal front yard:

322 For residential zoning districts, no part of the
323 ground-mounted solar energy system may be
324 placed closer to the front property line (and side
325 property line in a case of a corner lot) than the
326 principal structure to the street.

327 In the instance no building nor distinct principal
328 building is present on the lot or multiple lots, the
329 ground mounted solar energy system shall be
330 setback at least 100-ft and buffered from the road.

331 [b] Mixed-Use Zone:

332 No part of the ground-mounted solar energy
333 system may be placed closer to the front property
334 line (and side property line in a case of a corner
335 lot) than the principal structure to the street.

336 In the instance no building nor distinct principal
337 building is present on the lot or multiple lots, the
338 ground mounted solar energy system shall be

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- 339 setback at least 75-ft and buffered from the road.
- 340 [c] Minimum rear yard: 50-ft.
- 341 [d] Whatever the rear side: 50-ft.
- 342 [e] Minimum side yard: 50-ft.
- 343 [2] Lot coverage: Solar energy systems that have vegetation
344 or pervious materials underneath are exempt from lot coverage
345 standards.
- 346 [3] Height: Shall not exceed 20-ft. in height. The height of
347 any solar panel from the ground level shall not exceed 20-ft.
- 348 [4] Additional setbacks may be required to mitigate visual
349 and functional impacts.

350

351 §16.5.35 Solar Energy System, Roof-Mounted and Building-Integrated

352 A. Applicability

- 353 (1) Roof-mounted, building-mounted and building-integrated solar energy
354 systems and equipment are permitted by-right, unless they are deemed by the
355 Code Enforcement Officer, with input from the Fire Chief, to present one or
356 more unreasonable safety risks, including but not limited to, the following:
- 357 (a) Weight load;
- 358 (b) Wind resistance;
- 359 (c) Ingress or egress in the event of fire or other emergency; or
- 360 (d) Proximity of a ground-mounted system relative to buildings.

361 B. General requirements

- 362 (1) All solar energy systems installations shall be installed in compliance with the
363 photovoltaic systems standards of the latest addition of the National Fire
364 Protection Association (NFPA1) and of the National Electrical Code (NEPA
365 70), as adopted pursuant to §16.2.8.F(5)(c).
- 366 (2) Roof-mounted solar energy systems shall not extend more than 10-ft. above
367 the highest point of the roof.

368 C. Inspections

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- 369 (1) **Prior to operation, electrical connections must be inspected and approved by**
370 **the Code Enforcement Officer, or designee.**
371

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Table §16.5.28 Minimum Setbacks from Wetlands and Water Bodies

Table 16.5.28			
Minimum Setbacks from Wetlands and Water Bodies* [Amended 9-24-2012 by Ord. No. 12-11]			
Structure/Activity	Total Size of Wetland and/or Water Body		
	Less than 501 square feet (feet)	501 square feet to 1 acre and Intermittent Streams (feet)	Greater than 1 acre (feet)
Local distribution utility pole, fence, flagpole, signs or drainage structure	0	0	0
Functionally water-dependent uses	0	0	0
Roads and Driveways			
Traveled way of road or driveway of 18 feet or less in width ¹	0	10 from toe of slope	10 from toe of slope
Traveled way of road or driveway greater than 18 feet in width ¹	0	30 or 10 from toe of slope, whichever is greater	30 or 10 from toe of slope, whichever is greater
Parking Areas			
Parking areas for one- and two-family residential uses	0	10	20
1 to 5 stall parking area	0	30	50
6 to 20 stall parking area incorporating BMPs for stormwater management ²	0	40	75
6 to 20 stall parking area without incorporating BMPs for stormwater management ²	0	75	100
21 or more stall parking area ³ incorporating BMPs for stormwater management	0	50	75
Patios, Decks, Accessory Buildings			
Patio or deck area no larger than 500 square feet in size	0	30	50
Detached residential storage shed no larger than 120 square feet in size	0	30	50
Other Buildings and Structures			
Building or structure (including patio or deck area larger than 500 square feet in size)	0	50	100
Solar energy systems	0	50	100

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	Less than 501 square feet (feet)	501 square feet to 1 acre and Intermittent Streams (feet)	Greater than 1 acre (feet)
Activities and structures permitted within regulated wetlands	0	0	0
Subsurface Sewage Disposal			
Treatment tanks and disposal areas for new subsurface sewage disposal systems with design flows of less than 2,000 GPD	0	50	100
Treatment tanks and disposal areas for new subsurface sewage disposal systems with design flows of 2,000 GPD or more	0	100	100
Recreational Uses and Structures			
Low-intensity recreation	0	0	0
Recreational facility or structure excluding a golf course	0	50	100
Topsoil Removal			
Removal of more than 10 cubic yards of topsoil except for approved projects	0	50	100
Topsoil removal with a Soil Conservation Service-endorsed erosion and sedimentation plan	0	25	25
Special Uses			
Junkyard ¹	0	100	150
Bulk salt storage not in an enclosed structure ¹	0	100	150
Gravel and mineral extraction or processing ¹	0	100	150
Storage of hazardous chemicals or special wastes other than amounts normally associated with individual households/farms ¹	0	100	150
Commercial painting, wood	0	100	150

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	Less than 501 square feet (feet)	501 square feet to 1 acre and Intermittent Streams (feet)	Greater than 1 acre (feet)
preserving or furniture stripping ¹			
Laundromats, auto wash, printing, dry-cleaning, photographic processing, if not connected to a sanitary sewer ⁴	0	100	150
Metal plating, finishing, polishing ¹	0	100	150
NOTES:			
*	All vernal pools, including those having an area less than 501 square feet, are regulated by MDEP 06-096 Chapter 335.9.		
1	The street setback does not serve to negate a wetland crossing project for which a wetlands permit has been approved by the Planning Board.		
2	Written endorsement by the York County Soil and Water Conservation District (YCSWCD) or the Town’s Peer Review Consultant that best management practices (BMPs) for protecting water quality by minimizing pollutants leaving the site in the stormwater runoff are incorporated to the maximum extent practicable is required to satisfy this condition. The Planning Board may waive the requirement for written endorsement by the SWCD or the Town’s Peer Review Consultant when it finds a drainage plan has adequately protected the wetland from adverse impacts.		
3	Parking areas with 21 or more stalls must incorporate BMPs.		
4	Wetland setback may be reduced to 100 feet if the YCSWCD or the Town’s Peer Review Consultant finds the stormwater management plan incorporates BMPs for protecting water quality by minimizing pollutants leaving the site in the stormwater.		