

TOWN OF OTISFIELD

403 State Route 121, Otisfield, ME 04270

Voice: 207.539.2664 Fax: 207.539.2246

admin@otisfieldme.gov



MORATORIUM ORDINANCE REGARDING COMMERCIAL SOLAR FACILITIES

The TOWN OF OTISFIELD, Maine hereby adopts a Moratorium Ordinance Regarding Commercial Solar Facilities, as follows:

WHEREAS, the legislative body of the Town of Otisfield, Maine (The "Town") makes the following findings:

- (1) Pursuant to L.D. 1711, the Maine Legislature a net energy billing program for customers of investor-owned utilities, codified at 35-A M.R.S. §§ 3209-A, 3209-B;
- (2) The net energy billing program has incentivized customers to make financial investments in the construction of commercial distributed generation resources, including solar photovoltaic (PV) power electrical generation facilities ("Commercial Solar Facilities"), in order to receive, for electricity delivered to the electric grid from such facilities, a monetary credit to reduce the customer's utility bill; and
- (3) As a result of the net energy billing legislation, developers have expressed interest in and aggressively pursued the development of Commercial Solar Facilities throughout the State of Maine, including in the Town; and
- (4) No specific regulations governing Commercial Solar Facilities exist under the Town's Ordinances; and
- (5) The Town's Ordinances are insufficient to prevent serious public harm that could result from the siting, installation, and operation of Commercial Solar Facilities within the Town; and
- (6) The siting, installation, and operation of Commercial Solar Facilities within the Town raises legitimate and substantial questions about the impact of such facilities on the Town, including questions as to compatibility of such facilities with existing and permitted land uses in the Town; potential adverse environmental effects; and the lack of plans and other financial assurances that such facilities will be properly constructed and decommissioned; and
- (7) As a result of the foregoing issues, the siting, installation, and operation of Commercial Solar Facilities within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents and visitors; and
- (8) The Town needs time to evaluate the need for and to prepare reasonable ordinance provisions governing the siting, installation, operation, and decommissioning of Commercial Solar Facilities within the Town and to secure voter approval for such ordinance provisions; and
- (9) The Town, with assistance from the Planning Board, Code Enforcement Officer, and other departments, intends to study the Town's ordinances to determine the land use and other regulatory implications of the siting, installation, operation, and decommissioning of Commercial Solar Facilities within the Town, and to consider what locations, approvals, and performance standards, if any, might be appropriate for these facilities; and

(10) It is anticipated that such a study, review, and development of recommended ordinance amendments will take not more than 180 days from the Date of Applicability of this Moratorium Ordinance; and

(11) In the judgment of the legislative body of the Town, the foregoing findings constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the voters of the Town of Otisfield, Maine, as follows:

1. Moratorium. The Town does hereby declare a moratorium on the siting, installation, operation, permitting, and licensing of any Commercial Solar Facility within the Town.

For purposes of this Ordinance, "Commercial Solar Facility" is defined as an electric generating facility that uses solar photovoltaic (PV) technology with an area greater than one fourth acre (approximately, 11,000 square feet).

No person or organization shall locate or operate a Commercial Solar Facility within the Town on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board, or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application or request for any type of license, permit, or approval related to a Commercial Solar Facility.

2. Date of Applicability. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Ordinance shall govern and apply to all proceedings and applications for a Commercial Solar Facility that were or are pending before the Code Enforcement Officer or the Planning Board on or any time after **February 24, 2022** and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of the Code Enforcement Officer or the Planning Board made on or at any time after **February 24, 2022** that authorizes the operation of a Commercial Solar Facility (the "Date of Applicability").

3. Effective Date. This Ordinance shall become effective immediately upon its adoption (the "Effective Date") and shall remain in full force and effect for a period of up to but no longer than 180 days from the Date of Applicability, unless extended, repealed, or modified by the Town pursuant to applicable law or until a new ordinance regulating Commercial Solar Facilities or revisions to existing Town ordinances addressing such facilities are adopted by the Town, whichever shall first occur.

4. Conflicts; Savings Clause. Any provisions of the Town's ordinances that are inconsistent with or conflict with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

5. Violations. If any Commercial Solar Facility is located or operated in the Town, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.


Hal Ferguson


Rick Micklon


Lenny Adler

The Select Board of the Town of Otisfield, Maine.

ADOPTED 2/24/2022