

TOWN OF FRYEBURG

COMMERCIAL SOLAR ENERGY FACILITY MORATORIUM ORDINANCE

WHEREAS, the Maine Legislature recently enacted several laws intended to encourage development of renewable energy projects in the State of Maine; and

WHEREAS, as a result of these new laws, developers are proposing unprecedented numbers of solar energy systems throughout the state; and

WHEREAS, the available parcels in the Town of Fryeburg (“Town”) where development and operation of Commercial Solar Energy Facilities is presently feasible raises legitimate and substantial concerns about the environmental impacts of such uses, their appropriateness in those areas of the Town, as well as visual impacts and other considerations related to the appropriate siting of these systems; and

WHEREAS, State statute (30-A M.R.S. § 4352(2)) requires a zoning ordinance to “be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body and the Town of Fryeburg Comprehensive Plan, adopted November 3, 2014 does not mention or discuss the location and regulation of solar energy systems; and

WHEREAS, because the Town’s current Land Use Ordinance does not provide Specific Performance Standards which may be used to judge the appropriateness and subsequent impacts and performance of Commercial Solar Energy Facilities of any size, the Town’s Land Use Ordinance is, therefore, inadequate to prevent serious public harm that could be caused by the unregulated development of Commercial Solar Energy Facilities in Town; and

WHEREAS, a moratorium is necessary to allow a reasonable amount of time for the Planning Board to host Work Sessions, develop a draft ordinance encoding performance standards for Commercial Solar Energy Facilities, hold public hearings, and prepare a final Ordinance for a vote a Town meeting; and

WHEREAS, it is anticipated that such preparation, planning and development of Performance Standards to be added to Section 17 of the Land Use Ordinance will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance;

NOW, THEREFORE, based upon the preceding findings, be it ordained by the Town of Fryeburg, that the following Commercial Solar Energy Facility Moratorium Ordinance (“Moratorium Ordinance”) be, and hereby is, enacted and, in furtherance thereof, the Town does hereby declare a moratorium on the location, operation, permitting and licensing of Commercial Solar Energy Facility within the Town.

1. Authority. This Moratorium Ordinance is enacted pursuant to 30-A M.R.S. §§ 3001 *et seq.* and 4356, and Article VIII, Part Second of the Maine Constitution.

2. Purpose. The purpose of this Moratorium Ordinance is to allow Town officials and staff reasonable time to evaluate the concerns raised in regards to further development of Commercial Solar Energy Facilities, and to develop necessary Ordinances and Comprehensive Plan amendments to provide adequate protection for the property, health, welfare, and safety of the Town of Fryeburg's residents to address these concerns.

3. Definition. For the purposes of this Moratorium Ordinance, a Commercial Solar Energy Facility means a facility that uses one or more solar collectors to convert solar or photovoltaic energy to electrical energy and that is operated solely for the purpose of generating electrical power for sale. A Commercial Solar Energy Facility includes associated facilities (such as buildings, roads, generator lead lines and substations) and generating facilities (such as solar collectors/panels and electrical lines), but does not include a solar energy facility that principally generates energy for one or more residential, agricultural, or business uses on the property on which the facility is located.

4. Effective Date. This Moratorium Ordinance shall take effect once enacted by the Town of Fryeburg Special Town Meeting, but notwithstanding the provisions of 1 M.R.S. § 302, shall be applicable as of as expressly provided in Section 5, below.

5. Applicability. Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Moratorium Ordinance, when enacted, shall govern any proposed Commercial Solar Energy Facility for which an application for approval has not been deemed complete by the Planning Board and has not been the subject of at least one substantive review meeting by the Planning Board prior to the Applicable Date of this Moratorium Ordinance.

6. Duration of Moratorium. The moratorium shall remain in effect for one hundred and eighty (180) days from the effective date of this Moratorium Ordinance, unless extended, repealed, or modified by the Town Select Board under 30-A M.R.S. § 4356.

7. Prohibition. A moratorium is hereby imposed, effective immediately and applicable to the maximum extent permitted by law, on all proceedings, applications, petitions and requests for Commercial Solar Energy Facilities that are not pending proceedings (as defined by 1 M.R.S. §302) as of the Applicable Date of this Moratorium Ordinance and on any application for new or expanded Commercial Solar Energy Facilities within the Town of Fryeburg filed on or after the Applicable Date of this Moratorium Ordinance. During the time this Moratorium Ordinance is in effect, no officer, official, employee, office, board, or agency of the Town of Fryeburg shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of zoning, planning, or land use approval or permit, including but not limited to conditional use approval, for or related to a Commercial Solar Energy Facility development within the Town which was not already permitted by the Town or was not a pending proceeding for purposes of review prior to the Applicable Date of this Moratorium Ordinance.

8. Enforcement. If any Commercial Solar Energy Facility is established in contravention of this Moratorium Ordinance, the Select Board is hereby authorized to institute any and all actions, either legal or equitable, that they deem necessary or appropriate to enforce the provisions of this Moratorium Ordinance. Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S. § 4452. Each day of violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Fryeburg. Any violation of this Moratorium Ordinance constitutes a nuisance.

9. Severability. Should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.