

TOWN OF BRIDGTON
ORDINANCE ESTABLISHING A MORATORIUM
ON COMMERCIAL SOLAR ENERGY FACILITIES

Administrative Draft
March 29, 2022

PREPARED FOR TOWN REFERENDUM TO BE HELD ON JUNE 14, 2022

**TOWN OF BRIDGTON
ORDINANCE ESTABLISHING A MORATORIUM
ON COMMERCIAL SOLAR ENERGY FACILITIES**

The TOWN OF BRIDGTON, Maine, hereby adopts an Ordinance Establishing a Moratorium on Commercial Solar Energy Facilities (the "Moratorium Ordinance"), as follows:

WHEREAS, the legislative body of the Town of Bridgton (the "Town") makes the following findings:

- A. Pursuant to L.D. 1711, the Maine Legislature enacted amendments to the state's net energy billing program for customers of investor-owned utilities, which amendments are codified at 35-A M.R.S. §§ 3209-A and 3209-B; and
- B. The amended net energy billing program incentivizes utility customers to make financial investments in the construction of commercial distributed generation resources, including solar photovoltaic power electrical generation facilities ("Solar Facilities"), in order to receive, for electricity delivered to the electric grid from such facilities, monetary credits to reduce the customers' utility bills; and
- C. As a result of the amended net energy billing program, developers have expressed interest in and aggressively pursued the development of Solar Facilities throughout the State of Maine, including in the Town; and
- D. The Town's ordinances, including without limitation the Town of Bridgton Land Use Code, are insufficient to prevent serious public harm that could result from the siting, installation, and operation of additional Solar Facilities within the Town; and
- E. In particular, the siting, installation, and operation of 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, including cumulative effects, of such facilities; and the lack of plans and other financial assurances that such facilities will be properly constructed and decommissioned; and
- F. As a result of the foregoing issues, the siting, installation, and operation of Solar Facilities within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents and visitors; and
- G. The Town needs time to evaluate the need for and to prepare reasonable ordinance provisions or amendments governing the siting, installation, operation, and decommissioning of Solar Facilities within the Town and to secure voter approval for such ordinance provisions or amendments; and
- H. The Town, with assistance from the Planning Board, Code Enforcement Officer, and other departments, intends to study the Town's Land Use Code and other Town ordinances to determine the land use and other regulatory implications of the siting, installation, operation, and decommissioning of Solar Facilities within the Town, and to consider what

additional or different locations, approvals, and performance standards, if any, might be appropriate for such facilities; and

- I. It is anticipated that such a study, review, and development of recommended ordinance and code amendments will take not more than 180 days from the Effective Date of this Moratorium Ordinance; and
- J. 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 Bridgton, as follows:

1. MORATORIUM. The Town does hereby declare a moratorium on the siting, operation, or licensing of any Commercial Solar Energy Facility within the Town.

For purposes of this Moratorium Ordinance, "Commercial Solar Energy Facility" is defined as an assembly or installation of solar collectors and associated mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure that uses solar photovoltaic (PV) technology (including solar panels, arrays, or modules) to collect convert, store, and/or deliver electricity for off-site consumption, and which is intended for the production of income; *provided, however*, that this Moratorium Ordinance shall not apply to a Commercial Solar Energy Facility with a nameplate capacity of 125 kW (DC) or less.

During the time this Moratorium 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 for any type of license, permit, or approval related to a Commercial Solar Energy 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 Moratorium Ordinance shall govern and apply to all proceedings and applications for a Commercial Solar Energy Facility that were or are pending before the Code Enforcement Officer or the Planning Board on or any time after March 22, 2022 (the "Date of Applicability") 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 the Date of Applicability that authorizes the operation of a Commercial Solar Energy Facility.
3. EFFECTIVE DATE. This Moratorium Ordinance shall become effective immediately upon its adoption by the legislative body of the Town (the "Effective Date") and shall remain in full force and effect for a period of 180 days from the Date of Applicability, unless extended, repealed, or modified in accordance with applicable law.
4. CONFLICTS; SAVINGS CLAUSE. Any provisions of the Town's ordinances that are inconsistent with or conflict with the provisions of this Moratorium Ordinance are hereby

repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Moratorium 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 Energy Facility is located or operated in the Town, in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium 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.

EMERGENCY DECLARATION

The Town declares the existence of an emergency because the Town ordinances and codes are insufficient to prevent serious public harm that could be caused by the siting, installation, or operation of Commercial Solar Energy Facilities, as defined in this Moratorium Ordinance, and because the Town needs time to review the potential adverse impacts that may be caused by Commercial Solar Energy Facilities, and consider amendments to one or more of its ordinances and codes to mitigate any such impacts on the Town and its residents and visitors. This Moratorium Ordinance shall be effective immediately upon enactment and shall remain in effect for 180 days from the Date of Applicability, unless it is extended, repealed, or modified in accordance with applicable law.

Given under our hands this ____ day of _____, 2022.

A majority of the Municipal Officers of the Town of Bridgton, Maine.

Attest: A true copy of an ordinance entitled, "Town of Bridgton Ordinance Establishing a Moratorium on Commercial Solar Energy Facilities," as certified to me by the municipal officers of the Town of Bridgton, Maine, on the ____ day of _____, 2022.

Laurie Chadbourne, Town Clerk
Town of Bridgton, Maine