

MORATORIUM ORDINANCE ON LARGE SCALE SOLAR FACILITIES

WHEREAS, the Maine legislature has enacted laws over the past four years that are intended to encourage and subsidize the development of large scale solar facilities in the State of Maine;

WHEREAS, as a result of these new laws, developers are proposing unprecedented numbers of large scale solar facilities throughout the state;

WHEREAS, areas in the Town of Athens are suddenly under the threat of increased development pressure from large scale solar facilities, and in the absence of an ordinance to regulate such facilities, the Selectboard has already approved two such systems;

WHEREAS, there is a likelihood that other areas of town could be subjected to this development due to the amount of undeveloped land, relatively low land prices, access to major transportation and electricity corridors, government subsidies, and current high demand for such development;

WHEREAS, residents of the Town of Athens have expressed concerns about proposals for such developments, including concerns regarding quality of life, adjacent property values, loss of wildlife habitat, health and safety dangers, visual impacts, overburdening of public facilities and electrical transmission systems, loss of farmland and timberlands, and decommissioning liabilities and costs;

WHEREAS, the unregulated location and operation of large scale solar facilities within the Town of Athens raises legitimate and substantial concerns about health, safety, and environmental impacts of such uses, as well as visual impacts, overburdening of public facilities and electrical transmission systems, and other considerations related to appropriate siting of these facilities;

WHEREAS, continued development of such systems could pose serious threats to the public health, safety and welfare of the residents of Athens through over-development in parts of the town without adequate provisions for issues of land use compatibility, aesthetics, visual impacts, decommissioning, safety, accessibility for emergency vehicles and training for emergency response teams for such type developments, protection of drinking water, management of storm water, preservation of farmland and woodlands, and an overburdening of utilities providing electricity to the people and businesses of Athens;

WHEREAS, existing zoning and regulations do not adequately provide mitigation for incompatibility of land uses, negative visual impacts, lack of accessibility for emergency vehicles and training for emergency response teams, contamination of drinking water, inadequate treatment of storm water, loss of wildlife habitat, damage to farmland and woodlands, reductions in quality of life for abutters, and overburdening of utilities providing electricity to the people and businesses of Athens;

WHEREAS, the Town's current ordinances are insufficient to prevent serious public harm that could be caused by unregulated development of large scale solar facilities;

WHEREAS, the town needs at least 180 days to study the land use implications of these pressures and develop and implement appropriate regulations for development of large scale solar facilities;

WHEREAS, in the judgement of the town, these facts establish that a Moratorium Ordinance in accordance with 30-A M.R.S.A.4536(1) is immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, be it ordained by the voters of the Town of Athens, that the following Moratorium Ordinance on Large Scale Solar Facilities be, and hereby is, enacted and, in furtherance thereof, the town meeting does hereby declare a moratorium on the location, development, operation or licensing of large scale solar facilities within the Town.

For the purposes of this Moratorium, “large scale solar facilities” are defined as any solar facilities, projects, or installations including the associated solar arrays, solar related equipment, energy storage facilities, and components for distribution, which are intended to and/or in fact does generate electricity. This shall include, but is not limited to, any ground mounted or pole mounted photovoltaic (PV) array that is greater than 500 square feet in size.

Residential solar energy systems with an array area of less than 501 square feet in size, and ground or pole mounted arrays for private use with an array area of less than 501 square feet in size, are exempt from this ordinance. Large scale solar facility developments that received approval from the Town of Athens prior to the effective date of this Moratorium ordinance are exempt from provisions of this ordinance.

If enacted, the provisions of this Moratorium ordinance shall be applicable to all pending proceedings, applications and petitions commenced after November 2, 2023, which is the date of filing this initiative in the Town Clerk's office of the Town of Athens.

This Moratorium Ordinance shall remain in effect for a period of one hundred eighty (180) days after said date unless extended, repealed, or modified by the municipal officials of the Town of Athens, or until a new and revised set of regulations is adopted by the Town of Athens, whichever shall first occur.

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply to large scale solar facilities that are proposed to be located within the Town on or after the effective date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Moratorium Ordinance, when enacted, shall govern any proposed large scale solar facilities for which an application for a building permit, certificate of occupancy, electrical permit, shoreland zoning approval, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Selectboard, or other Town officials prior to the effective date of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate new large scale solar facilities within the Town on or after the effective date of this Moratorium Ordinance without complying with whatever ordinance amendment or amendments the town meeting may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that 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, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to large scale solar facilities; and

BE IT FURTHER ORDAINED, that if any large scale solar facility is established in contravention of this Moratorium, 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 in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations. Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S.A. 4452; and

BE IT FURTHER ORDAINED, that 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.