

SOLAR ENERGY FACILITY MORATORIUM ORDINANCE FOR THE TOWN OF STARKS

Adopted on March 11, 2022

ENACTED: 3/11/2022

Date

EFFECTIVE: 3/11/2022

Date

CERTIFIED BY:  _____

Name: Jennifer A Zweig Hebert

Title: Clerk of the Town of Starks

Solar Energy Facility Moratorium Ordinance for the Town of Starks

The Town of Starks adopts this Solar Energy Facility Moratorium Ordinance, as follows:

Section 1 Definitions

Solar Energy: means radiant energy (direct, diffuse and/or reflective) received from the sun.

Solar Energy Facility: means a facility that occupies more than 10,000 square feet used to capture solar energy, convert it, and supply it primarily for commercial use.

Section 2 Moratorium Declared

Whereas, there is interest in Solar Energy Facility development in the Town; and,

Whereas, this development pressure was unanticipated and has not been adequately provided for in the Town's current land use regulations; and,

Whereas, there is a strong likelihood that many areas of the Town may continue to be subjected to this development pressure due to the amount of undeveloped land, the nonexistence of any regulations or restriction on locations for Solar Energy Facility development; and,

Whereas, development of a Solar Energy Facility could pose threats to the public health, safety and welfare of the residents of the Town abutting or in close proximity to such facilities without adequate provision for issues of health, safety, land use compatibility, glare, visual degradation and environmental degradation; and,

Whereas, the Town needs time to study its land use regulations, Comprehensive Plan, and Site Plan Review Ordinance to determine the implications of development proposals involving Solar Energy Facilities and to develop reasonable ordinances for the protection of the health, safety, and welfare of the Town's residents, property owners and natural resources; and,

Whereas, the Town's Board of Selectmen and the Planning Board shall study the Town's ordinances to determine the land use, environmental and other regulatory implications of development proposals involving Solar Energy Facilities and consider what regulations might be appropriate for such proposals; and,

Whereas, the Town's current land use regulations, Comprehensive Plan, and Site Plan Review Ordinance do not contain sufficient standards to effectively provide municipal review and approval of development proposals involving Solar Energy Facilities; and,

Whereas, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least 180 days from the effective date of this moratorium on development proposals involving Solar Energy Facilities; and,

Whereas, amendments to the Town's land use regulations must be voted upon by Town Meeting; and,

Now, therefore, the Town does hereby enact this Ordinance, and, in furtherance thereof, the Town does hereby declare a moratorium on development proposals involving a Solar Energy Facility. This Moratorium Ordinance shall take effect once enacted by the legislative body. The moratorium shall remain in effect for 180 days from the effective date of this Ordinance, unless extended, repealed, or modified by the Town's Board of Selectmen, for the express purpose of drafting amendments to Town ordinances to protect the public from health and safety risks including, but not limited to, the potential adverse environmental, health, safety, land use compatibility, and visual degradation effects of development proposals involving a Solar Energy Facilities if not properly regulated; and,

Be it further enacted: this Ordinance shall apply to any new development proposal involving a Solar Energy Facility on or after the effective date of this Ordinance, provided however this Ordinance shall not apply to nor shall it have any effect on any application for any Solar Energy Facility for which an application has been submitted to and accepted by the Planning Board prior to March 11, 2022, regardless of its approval status at the time this Ordinance becomes effective. Further, such application shall be governed by the heretofore existing Site Plan Review Ordinance for the Town of Starks; and,

Be it further enacted: notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, when enacted this Ordinance shall govern any development proposal involving a Solar Energy Facility for which an application for site plan review approval and/or any other required land use approval has not been submitted and accepted by the Code Enforcement Officer, Planning Board, Board of Appeals or other Town official or administrative board or agency prior to the effective date of this Ordinance; and,

Be it further enacted: except for Solar Energy Facilities to which this Ordinance does not apply, no person or organization shall start or engage in the construction or operation of a Solar Energy Facility on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the Town may enact as a result of this moratorium; and,

Be it further enacted: except for Solar Energy Facilities to which this Ordinance does not apply, during the time this moratorium 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 new application for a license, building permit, certificate of approved use, site plan review and/or any other permits, licenses or approvals related to a Solar Energy Facility; and,

Be it further enacted: to the extent they are applicable those provisions of the Town's Site Plan Review Ordinance or other ordinances inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed for the duration of the moratorium hereby enacted and as it may be extended as permitted by law, but not otherwise; and,

Be it further enacted: should any section or provision of this Ordinance be declared to be invalid by any court of competent jurisdiction, such a declaration shall not invalidate any other section or provision.

Section 3. Violations; Civil Penalties

If the construction or operation of a Solar Energy Facility is established 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 in law and equity, including, but not limited to, fines and penalties in accordance with Title 30-A M.R.S. § 4452, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 4. Effective Date; Applicability

In view of the facts cited above, this Moratorium Ordinance shall take effect upon its enactment on March 11, 2022, and notwithstanding the provisions of Title 1 M.R.S. § 302, shall be applicable to the maximum extent permitted by law and subject to the severability clause above, to all proceedings, applications and petitions for any Solar Energy Facility that have not been submitted and accepted as of March 11, 2022, until the effective date of the necessary amendments to the "Town of Starks Site Plan Review Ordinance" and other applicable ordinances of the Town.