

TOWN OF TROY, MAINE
MORATORIUM ORDINANCE ON
COMMERCIAL SOLAR AND WIND ENERGY FACILITIES

WHEREAS, the Maine Legislature has passed various laws to encourage the construction of renewable energy facilities, including solar and wind energy facilities, through net energy billing and related incentive programs; and

WHEREAS, as a result of the Legislature's actions, commercial developers have expressed interest in and aggressively pursued the development of commercial and wind energy facilities throughout the State; and

WHEREAS, the Town of Troy finds that the siting, construction, and operation of commercial solar and wind energy facilities within the Town raises substantial and immediate concerns regarding the effect such facilities may have on the Town, including their compatibility with existing and permitted land uses in the Town, environmental impacts, and the ability of the Town to ensure their appropriate construction and decommissioning; and

WHEREAS, the Town's ordinances, regulations and other applicable laws do not govern the siting, construction, operation, or decommissioning of commercial solar and wind energy facilities; and

WHEREAS, the Town of Troy finds that the siting, construction, operation and decommissioning of commercial solar and wind energy facilities under the Town's existing ordinances, regulations and other applicable laws could pose serious threats to public health and the safety and welfare of the Town's residents; and

WHEREAS, the application of the Town's existing ordinances, regulations and other applicable laws to the development of commercial solar and wind energy facilities is inadequate to prevent the serious public harm such facilities may have upon the Town; and

WHEREAS, the Town requires at least 180 days to develop and implement the necessary ordinances and regulations to address these development pressures and ensure the public health and safety and welfare of the Town's residents; and

WHEREAS, the Town of Troy finds that the foregoing facts necessitate the establishment of a moratorium on commercial solar energy facilities and commercial wind energy facilities pursuant to 30-A M.R.S. §4356.

NOW, THEREFORE, the Town of Troy hereby ordains that the following moratorium ordinance be enacted:

1. Authority. This Ordinance is enacted pursuant to the authority given to the Town of Troy under 30-A M.R.S. §3001 and 30-A M.R.S. §4356.
2. Definitions. As used herein, unless context indicates otherwise, the following terms shall have the following meanings:
 - a. "Commercial solar energy facility" shall mean any installation of solar panels, equipment, structures and associated facilities constructed for the purpose of generating solar power for distribution or sale of electrical energy to or by a third party, excepting any solar panels or arrays installed or constructed by individual landowners for their personal or business-related use and any individual or entity directing such electrical energy back to the public energy grid solely to offset their own energy consumption.
 - b. "Commercial wind energy facility" shall mean any installation of a windmill, wind turbine, equipment, related structures or associated facilities constructed for the purpose of converting wind energy to electrical energy for sale or use by a person other than the generator, excepting any individual or entity directing such electrical energy back to the public energy grid solely to offset their own energy consumption.
 - c. "Town" shall mean the Town of Troy, Maine.

3. Purpose. This Ordinance is enacted for the purpose of providing the Town reasonable time in which to adopt new ordinances and regulations or to amend existing ordinances and regulations to adequately govern the siting, development, operation and decommissioning of commercial solar and wind energy facilities within the Town.
4. Moratorium. The Town hereby imposes a moratorium on the siting, development, and operation of commercial solar and wind energy facilities within the Town. For the duration of this moratorium, no individual or entity shall locate, construct or operate any new commercial solar and wind energy facility within the Town and 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 or wind energy facility.
5. Duration. The moratorium imposed by this Ordinance shall continue in full force and effect for a period of 180 days from the date of this Ordinance's initial enactment, unless extended pursuant to 30-A M.R.S. §4356(3) or repealed or modified by the Town pursuant to applicable law.
6. Retroactivity. Notwithstanding 1 M.R.S. §302 or any other law to the contrary, and regardless of the date of its enactment, this Ordinance shall govern and apply to all proceedings and applications for a commercial solar or wind energy facility that were or are pending before the Town's code enforcement officer, planning board or any other Town administrative board or agency on or after July 19, 2023.
7. Violation. That, if any Facility is operated in the Town in violation of this Ordinance, such operation shall constitute a violation of this Ordinance and each day of such violation shall constitute a separate violation of this Ordinance. The Town's officers, officials and employees are hereby authorized to institute any and all actions necessary or appropriate to enforce this Ordinance. The Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. §4452, including fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.
8. Inconsistency; Severability. That any provisions of the Town's ordinances that are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of the moratorium imposed by this Ordinance. 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.