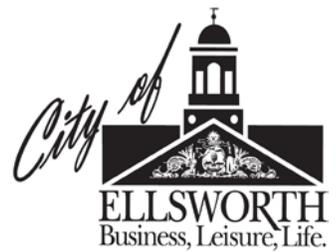


City of Ellsworth

Medium- and Large-Scale Solar Energy Systems Moratorium Ordinance

A true copy –

Attest: Heidi-Noel Grindle
City Clerk



Enacted 10/18/2021
Expires 04/16/2022

Extended

Expires

Repealed

The City of Ellsworth adopts a Moratorium Ordinance entitled Medium- and Large-Scale Solar Energy Systems Moratorium Ordinance as follows:

WHEREAS, areas of the City of Ellsworth are suddenly under threat of increased development pressure from solar energy developments in excess of one thousand, seven hundred fifty (1,750) square feet of solar panel area (“medium-scale solar energy systems” and “large-scale solar energy systems” as defined in the City of Ellsworth Code of Ordinances, Chapter 56 Unified Development Ordinance); and

WHEREAS, medium- and large-scale solar energy systems are a land use permitted by right in approximately 82 percent of the City’s land area (exclusive of water bodies and wetlands identified in the National Wetlands Inventory); and

WHEREAS, the City of Ellsworth Planning Board has approved six (6) Major Use Site Development plans for large-scale solar energy systems since June of 2020 totaling approximately 20 MW_{AC} generating capacity and occupying approximately 132 acres of previously undeveloped land, four (4) of which are located in the Rural (R) and/or Drinking Water (DW) Zoning Districts; and

WHEREAS, there is a strong likelihood that all areas of the City will continue to be subjected to this development due to the amount of undeveloped land, relatively low land prices, access to major transportation and electricity transmission corridors, and high demand for sites for such development; and

WHEREAS, continued development of such systems could pose serious threats to the public health, safety, and welfare of the residents of the City of Ellsworth through over-development of parts of the City without adequate provisions for issues of land use compatibility, safety and emergency response, aesthetics and other visual impacts, and treatment of stormwater; and

WHEREAS, existing zoning and regulations in the City’s current Unified Development Ordinance may not adequately provide for the mitigation of these impacts of these developments on the City’s aesthetics and visual character, emergency services, public drinking water supply and the quality of other surface water bodies, and undeveloped habitat blocks; and

WHEREAS, the City needs at least 180 days to study the land use implications of these development pressures and to develop and implement the necessary amendments to the Unified Development Ordinance to accommodate them; and

WHEREAS, during the effective period of this Moratorium, City staff and the Planning Board will work to develop appropriate zoning and regulations for the development of solar energy systems; and

WHEREAS, after public hearing, there is strong support for this Moratorium Ordinance; and

WHEREAS, in the judgment of the City, these facts establish that a Moratorium Ordinance in accordance with 30-A M.R.S.A. 4356 (1) is immediately necessary for the preservation of the public health, safety, and welfare;

NOW, THEREFORE, based upon the foregoing findings, be it hereby ordained that the City of Ellsworth does enact the following Medium- and Large-Scale Solar Energy Systems Moratorium Ordinance:

1. **Authority:** This Medium- and Large-Scale Solar Energy Systems Moratorium Ordinance is enacted pursuant to 30-A M.R.S.A. 4356 and the City of Ellsworth’s home rule authority pursuant to the Maine Constitution and 30-A M.R.S.A. 3001.
2. **Definitions:** The terms “medium-scale solar energy system” and “large-scale solar energy system” shall be as defined by the City of Ellsworth Code of Ordinances, Chapter 56 Unified Development Ordinance, Article 14 Definitions.
3. **Applicability and Purpose:** This Moratorium Ordinance shall apply to all Medium- and Large-Scale Solar Energy System developments for which an application to the Planning Board is made on or after the effective date of this Ordinance. The purpose of this Ordinance is to allow municipal officials reasonable time to evaluate the concerns raised in regards to anticipated or proposed Medium- and Large-Scale Solar Energy Systems, to determine the adequacy of existing land use ordinances and regulations, and, if necessary, develop additional ordinances and regulations to provide adequate protection for the property, health, welfare, and safety of the City of Ellsworth’s residents.
4. **Prohibition:** The City of Ellsworth hereby declares and imposes a moratorium prohibiting the development of any and all Medium- and Large-Scale Solar Energy Systems, except as provided below. No person or organization shall develop a Medium- or Large-Scale Solar Energy System within the City of Ellsworth, except as provided below. During the time this Moratorium Ordinance is in effect, no officer, official, employee, office, board, or agency of the City of Ellsworth shall accept, process, approve, deny, or in any other way act upon any application for a Major Use Site Development plan approval for a Medium- or Large-Scale Solar Energy System development within the City of Ellsworth.
5. **Effective Date:** This Moratorium Ordinance shall take effect as of the date of passage and shall remain in effect for a period of one hundred eighty (180) days after said date unless extended, repealed, or modified by the Ellsworth City Council, or until a new and revised set of regulations is adopted by the City of Ellsworth, whichever shall first occur.
6. **Pending Proceedings:** This Moratorium Ordinance shall not be applicable to applications to the Ellsworth Planning Board that have been granted final or conditional approval prior to the effective date or are pending as provided by Title 1 M.R.S.A. 302 and the City of Ellsworth Code of Ordinances, Chapter 56, Section 602.11 as of the effective date. No officer, official, employee, office, board, or agency of the City of Ellsworth shall deny any building, electrical, driveway/entrance, or other permits associated with construction of such plan approvals on the basis of this Ordinance’s effect.
7. **Action by the Planning Board and City Council:** During the effective period of this Moratorium Ordinance, the Planning Board and Council-appointed staff shall expeditiously act to review the implications of such developments on the health, safety, welfare, traffic, emergency services, public facilities and utilities, land use, aesthetics, and natural environment of the City of Ellsworth and its residents. The Planning Board shall endeavor to submit proposed amendments for permanent action within one hundred seventy-nine (179) days of the effective date of this Moratorium Ordinance.
8. **Severability:** Any provisions of the City of Ellsworth’s existing ordinances that are inconsistent or conflicting with the provisions of this Moratorium Ordinance are hereby repealed to the extent applicable for the duration of this Moratorium Ordinance. Should any section or provision of this

Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

9. **Enforcement:** The Municipal Officers are 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.
10. **Civil Penalties:** Any violation of this Moratorium Ordinance is subject to an enforcement action under 30-A M.R.S.A. 4452. Any violation of this Moratorium ordinance constitutes a nuisance. Each day of violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the City of Ellsworth.