

**TOWN OF ALNA, MAINE
MORATORIUM ORDINANCE REGARDING COMMERCIAL
OR COMMUNITY SOLAR ENERGY FACILITIES**

The TOWN OF ALNA, Maine (the “Town”), hereby adopts a Moratorium Ordinance Regarding Commercial or Community Solar Energy Facilities (this “Moratorium Ordinance”), as follows.

The legislative body of the Town makes the following findings:

WHEREAS, the Maine State Legislature established a net energy billing program for customers of investor-owned utilities, codified at 35-A M.R.S. §§ 3209-A, 3209-B, which has incentivized the investment in and development of commercial distributed generation resources, including solar photovoltaic (PV) electrical generation facilities (“Commercial or Community Solar Energy Facilities”); and

WHEREAS, as a result of the net energy billing program, developers have expressed interest in and have been aggressively pursuing developing Commercial or Community Solar Energy Facilities throughout the State of Maine, including in the Town; and

WHEREAS, no specific regulation governing Commercial or Community Solar Energy Facilities exists under the Town of Alna’s Land Use Ordinances; and

WHEREAS, the Town's existing ordinances are inadequate to prevent the potential for serious public harm from the siting, installation and operation of Commercial or Community Solar Energy Facilities in the Town; and

WHEREAS, the unregulated siting, installation, and operation of Commercial or Community Solar Energy Facilities within the Town raise legitimate and substantial questions about the impact of such facilities on the Town, including but not limited to whether such facilities are compatible with existing and permitted land uses in the Town; potential adverse environmental effects; and the lack of plans and other financial assurances that such facilities will be properly constructed and decommissioned; and

WHEREAS, as a result of the foregoing issues, the siting, installation, and operation of Commercial or Community Solar Energy Facilities within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents and visitors; and

WHEREAS, the Town needs a reasonable amount of time to study the land use implications of Commercial or Community Solar Energy Facilities and develop reasonable regulations governing their location, construction, operation, and decommissioning, and to secure voter approval for such regulations; and

WHEREAS, the Town, with assistance from the Planning Board, Code Enforcement Officer, and other departments, intends to study the Town's ordinances to determine the land-use and other regulatory implications of the siting, installation, operation, and decommissioning of Commercial or Community Solar Energy Facilities within the Town, and to consider what locations, approvals

and additional performance standards, if any, might be appropriate for these facilities; and

WHEREAS, it is anticipated that such study, review and development of reasonable regulations will not take more than 180 days from the Date of Applicability of this Moratorium Ordinance; and

WHEREAS, pursuant to 30-A M.R.S. § 4356, the Town may adopt a moratorium ordinance on the processing or issuance of permits, approvals and licenses for Commercial or Community Solar Energy Facilities; and

WHEREAS, the foregoing findings create necessity, within the meaning of 30-A M.R.S. § 4356, for a moratorium on the processing or issuance of development permits or licenses for Commercial or Community Solar Energy Facilities.

NOW, THEREFORE, pursuant to 30-A M.R.S §4356, be it ordained by the voters of Alna, Maine, as follows:

1. **MORATORIUM.** The Town does hereby declare a moratorium on the siting, installation, operation, permitting and approval of any Commercial or Community Solar Energy Facility within the Town of Alna.

For the purposes of this Moratorium Ordinance, “Commercial or Community Solar Energy Facility” is defined as a ground-mounted, electric generating facility that uses photovoltaic (PV) technology with a nameplate capacity of 125 kilowatts (AC) or greater for commercial purposes with an intention of generating power from the sun and converting such powering electricity for resale to or by a third party. Commercial or Community Solar Energy Facilities specifically do not include any solar panel collection system or array undertaken by individuals for their personal use, whether or not the nameplate capacity exceeds 125 kilowatts (AC).

No person or organization shall locate or operate a Commercial or Community Solar Energy Facility within the Town on or after the Effective Date of this Ordinance. 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 or request for any type of license, permit, or approval related to a Commercial or Community 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 or Community Solar Energy Facility that were or are pending before the Town at any time on or after February 22, 2023 (the “Date of Applicability”). To the extent allowed by 30-A M.R.S § 3007(6), this Moratorium Ordinance shall apply to and nullify the issuance of any final approval, license, or permit for a new or expanded Commercial or Community Solar Energy Facility issued within 45 days of the Effective Date.

3. **EFFECTIVE DATE.** This Moratorium Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect (i) for a period of 180 days from the Date of Applicability, (ii) until this moratorium is extended, repealed or modified by the Town pursuant to applicable law, or (iii) until a new ordinance regulating Commercial or Community Solar Energy Facilities or an amendment to existing Town ordinances addressing such facilities is adopted by the Town, whichever shall occur first.
4. **CONFLICTING OR INCONSISTENT PROVISIONS.** Any provisions of the Town's current ordinances and regulations which are inconsistent or conflicting with the provisions of this Moratorium Ordinance are hereby repealed, to the extent that they are applicable, for the duration of the Moratorium Ordinance hereby ordained, but not otherwise.
5. **EXTENSIONS.** This moratorium may be extended for additional 180 day periods by the Select Board of the Town of Alna, after proper notice and hearing, if a majority of the Select Board present and voting at such meeting find that: (i) the problems giving rise to the need for this moratorium still exist; and (ii) reasonable progress is being made to address and alleviate the problems giving rise to the need for this moratorium.
6. **SEVERABILITY.** To the extent that any section or paragraph of this Moratorium Ordinance shall be declared invalid for any reason by a court of competent jurisdiction, the remaining provisions herein shall remain valid.
7. **VIOLATIONS.** If any Commercial or Community 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.

Attest: _____
Ed Pentaleri, Select Board Member
Town of Alna

Attest: _____
Linda Kristan, Select Board Member
Town of Alna

Attest: _____
Charlie Culbertson, Select Board Member
Town of Alna