

CITY OF BREWER, MAINE IN CITY COUNCIL ASSEMBLED

2023-C016

August 8, 2023

TITLE: ORDER, ENACT AND ADD CHAPTER 52 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “CITY OF BREWER MORATORIUM ORDINANCE ON LARGE-SCALE SOLAR ENERGY SYSTEMS”.

Filed July 31, 2023
By Michele Daniels

WHEREAS, the City of Brewer first created local regulations for solar energy systems in 2020;
and

WHEREAS, there have been many site plan applications received for large-scale solar energy systems with five projects receiving site plan approval; and

WHEREAS, there continues to be interest in developers creating large-scale solar energy systems in Brewer; and

WHEREAS, there have been recommendations by State agencies and other organizations for improving designs and performance standards for such projects; and

WHEREAS, the City of Brewer desires to review and revise ordinances to include such recommendations and provide the best regulations for the residents of the City of Brewer for orderly and responsible development; and

WHEREAS, a moratorium is necessary for the City to review and revise its Land Use Code and other applicable Codes and Ordinance to determine, prepare, and adopt ordinance/code provisions to better address large-scale solar energy systems in order to avoid serious public harm or overburdening of public facilities; and

WHEREAS, the process for amending local ordinances takes several months for public hearing, Planning Board review and recommendation, and City Council posting and action; and

WHEREAS, it is anticipated that said review and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the City enacts this Moratorium Ordinance on Large-Scale Solar Energy Systems.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Brewer that the following Chapter 52 entitled “Moratorium Ordinance on Large-Scale Solar Energy Systems” be, and hereby is, enacted, and, in furtherance thereof, the City Council does hereby declare a moratorium on the acceptance and processing of any applications in the City regarding Large-Scale Solar Energy Systems. For the purpose of this moratorium “Large-Scale Solar Energy Systems” shall be the same as defined in Article 14 of the Brewer Land Use Code; and

BE IT FURTHER ENACTED, that this Moratorium Ordinance shall remain in effect for one hundred and eighty (180) days from the date of enactment of this Ordinance, unless extended, repealed, or modified by the City Council, for express purpose of drafting an amendment or amendments to the City’s current Land Use Code and other applicable Codes and Ordinances to adequately address large-scale solar energy systems; and

BE IT FURTHER ENACTED, that notwithstanding the provisions of 1 M.R.S.A. §302 or any other law to the contrary, this Ordinance, when enacted, shall apply to and govern any land use or zoning regulations for which an application for a site plan or any other required approval has not been granted final approval (including without limitation any pending proceeding) by the Code Enforcement Officer, Planning Board, or other City officials or boards prior to the enactment date of this Ordinance; and

BE IT FURTHER ENACTED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve deny, or in any other way act upon any application for a license, site plan review, and/or any other permits or licenses related to Large-Scale Solar Energy Systems; and

BE IT FURTHER ENACTED, that those provisions of the City’s current Land Use Code and other applicable Codes and Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ENACTED, that if a person or entity is in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the City 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; and

BE IT FURTHER ENACTED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Statement of Fact: This Moratorium Ordinance is to prevent local review and approval of Large-Scale Solar Energy Systems that are not currently approved by the Brewer Planning Board for a period of one hundred eighty (180) days from the date of enactment of this Moratorium Ordinance.