

ORDINANCE COMMITTEE MEETING
May 21, 2024 • 6:00 p.m.
Council Chambers

This meeting can be viewed online by going to
<https://www.youtube.com/@TownofPittsfieldMaine/streams>

- 1. Call to Order**
- 2. Election of Committee Chair**
- 3. Town of Pittsfield Commercial Solar Energy Facility Moratorium Ordinance**
- 4. Town of Pittsfield Consumer Fireworks Ordinance**
- 5. Adjournment**

Committee Members:

Mayor Cianchette
Councilor Margolskee
Councilor Saucier

Topic: Ordinance Committee Meeting - 05/21/2024
Time: May 21, 2024 06:00 PM Eastern Time (US and Canada)

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TOWN OF PITTSFIELD COMMERCIAL SOLAR ENERGY FACILITY MORATORIUM ORDINANCE

THE TOWN OF PITTSFIELD TOWN COUNCIL hereby ordains, and adopts a Commercial Solar Energy Facility Moratorium Ordinance as follows:

Section 1. Definitions.

Associated Facilities means elements of a Commercial Solar Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Commercial Solar Energy Facility, including, but not limited to, buildings, access roads, generator lead lines and substations.

Generating Facilities means Solar Collectors and electrical lines, not including generator lead lines, that are immediately associated with Solar Collectors.

Town means the Town of Pittsfield, Maine, a municipal corporation organized and existing under the laws of the State of Maine.

Commercial Solar Energy Facility means a facility that uses one or more Solar Collectors to convert solar or photovoltaic energy to electrical energy and that is operated solely for the purpose of generating electrical power for sale. A Commercial Solar Energy Facility includes Generating Facilities and Associated Facilities, but does not include a solar energy facility that principally generates electrical energy used by one or more residential uses on the property on which the facility is located, even if a portion of the energy from such facilities is sold or distributed to the grid.

Solar Collector means a device, structure or a part of a device or structure for which the primary purpose is to transform photovoltaic or solar radiant energy into thermal, mechanical, chemical, or electrical energy, along with associated electrical conversion components designed to convert solar energy into electricity.

Section 2. Moratorium Declared.

WHEREAS, there is growing interest in Commercial Solar Energy Facility development in the Town;

WHEREAS, the topography of the Town is believed to be conducive to Commercial Solar Energy Facility development;

WHEREAS, the Town is under threat of Commercial Solar Energy Facility development pressure;

WHEREAS, this development pressure is unanticipated and has not been adequately provided for in the Town's current Zoning Ordinance or other land use ordinances;

WHEREAS, development of Commercial Solar Energy Facilities could pose serious threats to the public health, safety and welfare of the residents of Pittsfield abutting or in close proximity to such facilities without adequate provision for issues of health, safety, land use compatibility, noise, visual degradation and environmental degradation;

WHEREAS, the Town needs time to study its ordinances to determine the implications of development proposals involving Commercial Solar Energy Facilities and to develop reasonable ordinances for the protection of the health, safety, and welfare of Pittsfield's residents, property owners and natural resources;

WHEREAS, the Town Council and the Planning Board, with such professional advice and assistance as they deem necessary and appropriate, shall study the Town's ordinances to determine the land use, environmental and other regulatory implications of development proposals involving Commercial Solar Energy Facilities and consider what regulations might be appropriate for such activity;

WHEREAS, the Town's current Zoning Ordinance and other land use ordinances are not adequate to prevent serious public harm from proposed development proposals involving Commercial Solar Energy Facilities;

WHEREAS, the Town's current Zoning Ordinance and other land use ordinances do not contain sufficient standards to effectively provide municipal review and approval of development proposals involving Commercial Solar Energy Facilities;

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town first considers this moratorium on development proposals involving Commercial Solar Energy Facilities;

WHEREAS, amendments to the Zoning Ordinance and other land use ordinances require a public hearing by the Planning Board and then must be voted upon by the Town Council; and

WHEREAS, in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S.A. § 4356(1)(B) and require this Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town does hereby ordain that this Ordinance be, and hereby is, enacted, and, in furtherance thereof, the Town does hereby declare a moratorium on development proposals involving a Commercial Solar Energy Facility. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended or modified by the Town Council, for the express purpose of drafting an amendment or 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, noise, and visual degradation effects of development proposals involving a Commercial Solar Energy Facility if not properly regulated; and

BE IT FURTHER ORDAINED, that this Ordinance shall apply to any new development proposals involving a Commercial Solar Energy Facility after the May 21, 2024 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any new development proposal involving a Commercial Solar Energy Facility for which an application for a license, building permit, certificate of approved use, conditional use review and/or any other required land use approval has not been submitted and finally acted on by the Code Enforcement Officer, Planning Board, Board of Appeals or other Town official or administrative board or agency prior to May 21, 2024, the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall start or engage in the construction or operation of a Commercial Solar Energy Facility or test for the suitability of sites for a Commercial Solar Energy Facility on or after the May 21, 2024 applicability 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 ORDAINED, that 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 application for a license, building permit, certificate of approved use, conditional use review and/or any other permits, licenses or approvals related to a Commercial Solar Energy Facility; and

BE IT FURTHER ORDAINED, that those provisions of the Town's Zoning Ordinance or any other 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 ORDAINED, 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.

Section 3. Violations; Civil Penalties.

If the construction or operation of a Commercial 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 30-A M.R.S.A. § 4452, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 4. Effective Date; Applicability Date.

This Ordinance shall take effect in accordance with the provisions of Article II, Section 2.13 of the Pittsfield Town Charter. The applicability date of this Ordinance is May 21, 2024.

TOWN OF PITTSFIELD CONSUMER FIREWORKS ORDINANCE

THE TOWN OF PITTSFIELD TOWN COUNCIL hereby ordains, and adopts a Consumer Fireworks Ordinance as follows:

ARTICLE 1:

PURPOSE

1.1 **Purpose.** This Ordinance regulates the use of consumer fireworks to ensure the public health, safety and welfare of the residents and property owners of the Town of Pittsfield and of the general public.

ARTICLE 2:

TITLE AND AUTHORITY

2.1 **Title and Authority.** This Ordinance shall be known as the "Town of Pittsfield Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, and the provisions 8 M.R.S. § 223-A.

ARTICLE 3:

DEFINITIONS

3.1 **Definitions.** The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11, or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule; and
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Skyrockets and bottle rockets. For purposes of this definition, "skyrockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Display – means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects. "Display" includes a "special effects display" as defined in 8 M.R.S. §221-A (10).

Fireworks – means any:

- A. Combustible or explosive composition or substance.
- B. Combination of explosive compositions or substances.
- C. Other article that was prepared for the purpose of producing visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, and other fireworks of like construction.
- D. Fireworks containing any explosive or flammable compound.
- E. Tablets or other device containing any explosive substance or flammable compound.

The term “fireworks” does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

ARTICLE 4:
USE OF CONSUMER FIREWORKS RESTRICTED

4.1 ***Limits on Hours and Dates.*** A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Pittsfield or in or from any watercraft within waters of the Town except between the hours of 9:00 a.m. and 12:30 a.m. on the following days:

- A. July 4th and either the weekend prior to or after
- B. December 31st and either the weekend prior to or after
- C. Fireworks may only be used on Fire Class 1 or 2 days.

4.2 ***Special Permits.*** A resident property owner may obtain a special permit by going to www.wardenreport.com. Residents are limited to 5 permits per calendar year.

4.3 ***Limits on Locations and distancing.*** A person may use, display, fire, or cause to be exploded consumer fireworks only on that person’s property or on the property of a person who has consented to the use of consumer fireworks on that property.

- A. Aerial displays shall not be ignited within one hundred (100) feet of any neighboring structure not owned by the user unless the user has permission from the property owner.
- B. Ground displays shall not be ignited within twenty-five (25) feet of any neighboring structure not owned by the user unless the user has permission from the property owner.

4.4 Cessation After Single Complaint. Upon complaint from a single household to the Pittsfield Police or Fire Department, that departments designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Pittsfield Police or Fire Department. In instances where the required cessation extends beyond the 12-hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

4.5 Cessation After Multiple Complaints. Upon complaints from multiple households to Pittsfield Police or Fire department that departments designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a 12-hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort or repose of any reasonable person located within or upon any residential premises.

4.6 Collateral Debris on Neighboring Properties and Right of Ways. No person may use, display, fire, or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user's property unless the person on whose property it may land has given consent for the debris to land.

4.7 Visible Intoxication or Impairment. A person may not use, display, fire, or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.

ARTICLE 5:
VIOLATION AND ENFORCEMENT

5.1 Penalty for Violation. Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Pittsfield for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

5.2 Enforcement. This Ordinance shall be enforced by the Town of Pittsfield Police Department.

5.3 ***Injunction.*** In addition to any other remedies available at law or equity, the Town of Pittsfield, acting through its Town Manager, may authorize an attorney apply to any court of competent jurisdiction to enjoin any planned, anticipated, or threatened violation of this Ordinance.

5.4 ***Seizure & Disposal of Consumer Fireworks.*** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

ARTICLE 6:
EXCEPTIONS

6.1 ***Exceptions.*** This Ordinance does not apply to the town of Pittsfield, local schools, funeral/memorial events where a 21-gun salute or similar is rendered, or any person(s) who has obtained a permit under 8 M. R. S. §227-A to conduct a display of fireworks.

ARTICLE 7:
SEVERABILITY

7.1 ***Severability.*** In the event that any section, subsection, or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or portion of this Ordinance.