

UTILITY SCALE SOLAR FACILITIES MORATORIUM ORDINANCE

Proposed November 7, 2022

The **TOWN OF WINTHROP**, Maine hereby adopts a moratorium ordinance entitled “Utility Scale Solar Facilities Moratorium Ordinance” as follows:

WHEREAS areas of the Town of Winthrop are suddenly under threat of increased development pressure from Utility Scale Solar Facilities; and

WHEREAS residents of the Town of Winthrop have expressed concerns about proposals for such developments, including concerns regarding quality of life, adjacent property values, health and safety concerns, decommissioning liabilities and costs, visual impacts, etc.

WHEREAS, the development of such proposals could pose a serious threat to the quality of life, adjacent property values, and the health and safety of the Town of Winthrop's residents.

WHEREAS this development pressure was unanticipated and is not provided for in the Town's current ordinances and regulations.

WHEREAS the Town of Winthrop needs at least 180 days to consider, develop, and implement necessary ordinances and regulations to protect the health, safety, and welfare of the residents of the Town of Winthrop.

WHEREAS, in the judgment of the Town, the foregoing facts constitute an emergency and demonstrate that a moratorium on development of Utility Scale Solar Facilities is necessary pursuant to 30-A M.R.S.A. § 4356(1).

NOW, THEREFORE, the Town of Winthrop hereby ordains that the following Moratorium Ordinance be enacted:

I. **Authority:** This Moratorium Ordinance is enacted pursuant to 30-A M.R.S.A. § 4356 and the Town of Winthrop's home rule authority pursuant to the Maine Constitution and 30-A M.R.S.A. § 3001.

II. **Definitions:** The following definition shall be used in the interpretation and construction of this Ordinance:

A. **Utility Scale Solar Facility:** is any solar facility, project, or installation including the associated solar arrays, solar related equipment, energy storage facilities and components for distribution, which is intended to and/or in fact does generate solar power and feeds said power into the electric grid supplying the local utility with power. This shall include, but is not limited to, any ground mounted photovoltaic (PV) project that is larger than 0.10 M.W. (ac) in capacity. Residential/commercial solar arrays smaller than 0.10 M.W. (ac) are not included in this definition.

III. **Purpose:** The purpose of this Moratorium Ordinance is to allow municipal officials a reasonable time to evaluate the concerns raised in regard to any potential utility scale solar development and 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 Town of Winthrop's residents.

IV. **Moratorium on Utility Scale Solar Facilities:** The Town of Winthrop hereby declares and imposes a moratorium, prohibiting the development of any and all Utility Scale Solar Facilities within the Town of Winthrop.

V. **Moratorium on Procession Applications:** No official, officer, board, or body of the Town of Winthrop, including but not limited to the Code Enforcement Officer, the Planning Board, or the Municipal Officers, shall accept, process, review, deny, approve, authorize, or issue any applications, petitions, plans, permits, licenses, or requests for approval or authorization involving Utility Scale Solar Facilities development, construction, operation, or use located, in whole or in part, within the Town of Winthrop.

VI. **Severability:** To the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid.

VII. **Effective Date:** In view of the facts cited in the preamble, this Moratorium Ordinance shall take effect 30 days after passage by the Town of Winthrop, and shall expire on the 180th day thereafter, unless earlier extended, repealed, or modified by the Winthrop Town Council, notwithstanding the provisions of 1 M.R.S.A. § 302, be applicable, to the maximum extent permitted by law and subject to the severability clause above, to all filed, pending, or future applications and petitions for Utility Scale Solar Facilities which have not received all necessary development permits and licenses from the Town of Winthrop and all proposed Utility Scale Solar Facilities that were not fully operational and/or did not have all the required State permits as of April 4, 2022, which is the date of enactment from the Town Council adoption.

VIII. **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.

IX. **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 Town of Winthrop.