

**TOWN OF WHITING  
SOLAR ENERGY FACILITY MORATORIUM ORDINANCE**

**Section 1. Definitions.**

*Associated Facilities* means elements of a Solar Energy Facility other than its Generating Facilities that are necessary for the proper operation and maintenance of the 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.

*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.

*Solar Energy Facility* means a facility that uses one or more Solar Collectors to convert solar or photovoltaic energy to electrical energy. A Solar Energy Facility includes Generating Facilities and Associated Facilities.

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

**Section 2. Moratorium Declared.**

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

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

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

**WHEREAS**, this development pressure is unanticipated and has not been adequately provided for in the Town's current Land Use Permit Ordinance or any other ordinance adopted by the Town; and

**WHEREAS**, development of Solar Energy Facilities could pose serious threats to the public health, safety and welfare of the residents of Whiting 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; and

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

**WHEREAS**, the Select Board 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 Solar Energy Facilities and consider what regulations might be appropriate for such activity;

**WHEREAS**, the Town's current Land Use Permit Ordinance is not adequate to prevent serious public harm from proposed development proposals involving Solar Energy Facilities;

**WHEREAS**, the Town's current Land Use Permit Ordinance does not contain sufficient standards to effectively provide municipal review and approval of development proposals involving 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 Solar Energy Facilities;

**WHEREAS**, amendments to the Land Use Permit Ordinance, or the adoption of another ordinance to properly regulate Solar Energy Facilities both require a public hearing by the Planning Board and then must be voted upon by Town Meeting; and

**WHEREAS**, in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S. § 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 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, repealed, or modified by the Select Board, 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 Solar Energy Facility if not properly regulated; and

**BE IT FURTHER ORDAINED**, that this Ordinance shall apply to any new development proposals involving a Solar Energy Facility after the **November \_\_**, 2023 applicability date of this Ordinance; and

**BE IT FURTHER ORDAINED**, that notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any new development proposal involving a Solar Energy Facility for which an application for a license, building permit, 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 **November \_\_**, 2023, 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 Solar Energy Facility or test for the suitability of sites for a Solar

Energy Facility on or after the **November \_\_\_\_\_**, 2023 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 Solar Energy Facility; and

**BE IT FURTHER ORDAINED**, that those provisions of the Town's Land Use Permit Ordinance or 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 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. § 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 immediately upon passage by Town Meeting. The applicability date of this Ordinance is **November \_\_\_\_\_**, 2023.