



023-24-04

**TOWN OF HERMON
MORATORIUM ORDINANCE
ON
UTILITY SCALE SOLAR FACILITIES**

The Town of Hermon Council hereby enacts a moratorium ordinance entitled the Utility Scale Solar Facilities Moratorium Ordinance as follows:

WHEREAS, area of the Town of Hermon is suddenly faced with the prospect of increased development pressure from Utility Scale Solar Facilities;

WHEREAS, residents of the Town of Hermon have expressed concerns about such proposed or anticipated developments, including concerns regarding the quality of life, adjacent property values, health and safety, decommissioning costs, visual impacts, and environmental impacts;

WHEREAS, without appropriate regulation, the development of such proposals could pose a threat to the quality of life, adjacent property values, and the health and safety of the Town of Hermon's residents;

WHEREAS, the Town of Hermon seeks to balance these risks with the benefits associated with clean energy projects like Utility Scale Solar Facilities through appropriate regulations;

WHEREAS, the Town of Hermon requires 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 Hermon; and

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

NOW, THEREFORE, the Town of Hermon hereby ordains that the following Utility Scale Solar Facilities Moratorium Ordinance be enacted:

- I. **Authority:** This Utility Scale Solar Facilities Moratorium Ordinance is enacted pursuant to 30-A M.R.S.A. § 4356; the Town of Hermon's home rule authority pursuant to the Maine Constitution and 30-A M.R.S.A. § 3001; and section 2.13(6) of the Charter of the Town of Hermon.
- II. **Definitions:** The following definition shall be used in the interpretation and construction of this Moratorium Ordinance:
 - a. **Utility Scale Solar Facility:** is any solar facility, project, or installation which is intended to or in fact does generate solar power and feeds said power into the electric grid supplying the local utility with power. This shall include any ground-mounted or pole-mounted photovoltaic (PV) project that generates greater than 1 megawatt (MW) of solar energy. Residential/commercial solar arrays that generate less than 1 MW of solar energy are not included in this definition. Solar arrays installed on roofs of commercial or residential properties in compliance with existing ordinances and codes 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 regards to anticipated or proposed Utility Scale Solar Facilities, to 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 Hermon's residents.
- IV. **Moratorium on Utility Scale Solar Facilities:** The Town of Hermon hereby declares and imposes a moratorium, prohibiting the development of any and all Utility Scale Solar Facilities within the Town of Hermon. No person or organization shall develop or operate a Utility Scale Solar Facility within the Town of Hermon.
- V. **Moratorium on Processing Applications:** No official, officer, board, or body of the Town of Hermon, 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 Hermon.
- VI. **Severability:** Any provisions of the Town of Hermon's existing ordinances that are inconsistent or conflicting with the provisions of this Moratorium Ordinance are hereby repealed to the extent applicable for the duration of this Moratorium Ordinance. If any section or provision of this Moratorium Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.
- VII. **Effective Date, Retroactivity & Term:**
 - a. Pursuant to the Charter of the Town of Hermon, this Moratorium Ordinance shall take effect 30 days after passage by the Town of Hermon Council.
 - b. Upon its effective date, notwithstanding the provisions of 1 M.R.S. § 302, this Ordinance shall be retroactive and 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 Hermon and all proposed Utility Scale Solar Facilities that were not fully operational and/or did not have all the required State permits as of November 9, 2023, the date the Moratorium Ordinance was first proposed to the Town of Hermon Council.

- c. Unless, after notice and hearing, the Town of Hermon Council votes to extend it, this Moratorium Ordinance shall remain in full force and effect for 180 days after its enactment, or until a new and revised set of regulations is adopted by the Town of Hermon, whichever shall first occur.

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 Hermon.

SIGNED THIS 9th day of November, 2023, BY THE MUNICIPAL OFFICERS:

Ronald Murphy
Ronald Murphy

Steven Thomas
Steven Thomas

Richard Cyr
Richard Cyr

Christopher Gray
Christopher Gray

Danielle Haggerty
Danielle Haggerty

John Snyder III
John Snyder III

Absent
Derek Wood

Attest Original: Kristen Cushman

Motion	<u>Thomas</u>	Yeas	<u>6</u>	Date	<u>11/7/23</u>
Second	<u>Haggerty</u>	Nays	<u>0</u>		