

Local Law No. ____ of 2024

**Local Law Enacting a Temporary Moratorium on Approvals of Utility
Scale Solar Energy Facilities, Wind Generated Energy Facilities
and Alternative Energy Facilities within the Town of Jackson**

Section 1. Title:

This Local Law shall be referred to as the “Local Law Enacting a Temporary Moratorium on Approvals of Utility Scale Solar Energy Facilities, Wind Generated Energy Facilities and Alternative Energy Facilities within the Town of Jackson.”

Section 2. Statutory Authority, Purpose and Intent:

This Local Law is adopted pursuant to the authority vested in the Town Board of the Town of Jackson pursuant to Municipal Home Rule Law §10 of the State of New York to regulate and control land use, and to protect the health, safety and welfare of its residents of the Town of Jackson by enacting a six (6) month moratorium on the approval of any and all applications relating to the siting, development, construction, establishment, or creation of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities.

Section 3. Legislative Findings:

- A. The Town of Jackson Town Board hereby finds that without a temporary moratorium on the processing, permitting and approval of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities, there is a potential that such uses could be located in unsuitable areas within the Town and/or on particular parcels of land without adequate dimensional regulations in place, without adequately considering the visual effects of such uses, and without adequately considering the continuity of agricultural lands and lands located within scenic views in the Town. The potential for the unsuitable location of and lack of proper regulations for such uses would have materially adverse impacts on the Town and on the general health, safety and welfare of its residents.
- B. The Town Board recognizes and finds that time is required to review and examine its existing ordinances, local laws and land use regulations with respect to the impact of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities so that suitable legislation can be drafted and adopted to control the location, size, and configuration of such uses so as to harmoniously integrate such uses with the existing rural, agricultural and scenic landscape of the Town.
- C. The Town Board passed a solar energy Town Law in April of 2023 entitled “A Local Law to Permit Utility Scale Solar Energy Facilities” which the Town Board finds is in need of revision based on changes in industry guidance and guidelines, as well as changes in solar technology, solar energy facility concepts and solar energy facility configurations. It is the Town Board’s intention to have this moratorium apply to the

current legislation and prohibit the issuing of any permits for the siting, development, construction, establishment, or creation of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities.

- D. The Town Board further finds and determines that it requires the six (6) month moratorium period imposed herein in order to carefully review the existing Town Laws as they apply to such uses and to complete the enactment and/or amendment to Town Laws, schedule and hold the required public hearings, either on amendments to existing Local Laws or the enactment of new Local Laws, perform the appropriate environmental reviews thereof, comply with applicable provisions of law, adopt the Local Law(s), and file the same with the Secretary of State of the State of New York.
- E. For the foregoing reasons, the Town Board finds that the temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to adopt and/or amend Town Laws, thus protecting and furthering the public interest, health and safety of the residents of the Town of Jackson.

Section 4. Body, Temporary Moratorium and Prohibitions:

- A. Commencing July 1, 2024, and during the term of the moratorium, or any extension thereof, no new application for a permit, variance, subdivision, site plan approval, or other Town approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, nor shall any permit or approval be issued by any board, employee, official or agent of the Town of Jackson for the siting, development, construction, establishment, or creation of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities.
- B. Commencing July 1, 2024, and during the term of the moratorium, or any extension thereof, no person shall use, cause, or permit to be used, any land, body of water, building, or other structure for any utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities.
- C. This moratorium and the prohibitions set forth herein shall be in effect immediately upon its adoption and subsequent filing with the Secretary of State and shall expire pursuant to its terms herein, or on the effective date of a Town Board resolution affirmatively stating that the Town Board has determined that the need for this moratorium and the prohibitions set forth herein are no longer necessary or required.
- D. This moratorium and the prohibitions set forth herein shall apply to all real property located within the Town of Jackson and all land use applications for the siting, development, construction, establishment, or creation of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities.
- E. Under no circumstances shall the failure of the Town Board, Town Planning Board or other official of the Town of Jackson to take action upon any new applications for a permit, variance, subdivision, site plan approval, building permit or other Town

approval, of any kind or nature, in connection with the siting, development, construction, establishment, or creation of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities constitute an approval by default or an approval by virtue of the expiration of time to respond to any such applications.

- F. This moratorium and the prohibitions set forth herein shall not apply to: i) utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities for which approvals and/or permits were issued by the Town prior to July 1, 2024, or ii) any completed application for the siting, development, construction, establishment, or creation of utility scale solar energy facilities, wind generated energy facilities and alternative energy facilities submitted to the Town prior to July 1, 2024.
- G. The term of this moratorium and the prohibitions set forth herein shall be for a period of six (6) months from the effective date, with the Town Board being permitted to extend the moratorium for two additional six (6) month periods if determined as appropriate by resolution of the Town Board.

Section 5. Definitions: For the purposes of this Local Law the following terms shall have the meanings respectively set forth below:

- A. **UTILITY SCALE SOLAR ENERGY FACILITY** – A solar photovoltaic collection device and equipment that uses solar radiation to generate energy where the facility produces energy that is predominately sold for off-site use into the grid pursuant to an interconnection agreement with a public electrical distribution, e.g. National Grid, where the nameplate capacity of the solar system is 1 megawatt or greater. A USSEF is also a Commercial Solar Facility under the Site Plan Review Law.
- B. **WIND GENERATED ENERGY FACILITY** – One or more wind turbine or similar devices that captures and converts wind energy into electricity where the facility produces energy that is predominately sold for off-site use into the grid pursuant to an interconnection agreement with a public electrical distribution, e.g. National Grid. Wind Generated Energy Facility includes, but is not limited to: wind towers; wind turbines; distribution, collection and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit breakers and transformers; energy storage facilities; overhead and underground control; communications and radio relay systems and telecommunications equipment; monitoring and recording equipment and facilities; erosion control facilities; utility lines and installations; generation tie lines; ancillary buildings; wind monitoring stations; and accessory equipment and structures.
- C. **ALTERNATIVE ENERGY FACILITY** – Any system or device that generates electricity from a renewable energy source, other than wind or solar, and which includes, but is not limited to: geothermal energy, hydrogen technology, renewable natural gas, where the facility produces energy that is predominately sold for off-site use into the grid pursuant to an interconnection agreement with a public electrical distribution, e.g. National Grid.

D. COMPLETED APPLICATION – An application which complies with “SECTION FIVE: APPLICATION REQUIREMENTS” of Local Law 3 of 2023, Utility Scale Solar Energy Facilities Law Town of Jackson.

Section 6. Penalties:

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00) or imprisonment for not more than ten (10) days, or both, for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) or imprisonment for a period of not more than 30 days, or both. For the purpose of this paragraph, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled, and violations restrained by order or by injunction of a court of competent jurisdiction, in any action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the opposing party shall be responsible for any and all costs incurred by the Town relative thereto, including attorney’s fees and paralegal’s fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within thirty (30) days from the date it is determine and assessed by the court, such expense shall be charged to the property(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property(ies), and such expense shall be a lien upon such property(ies) until paid.

Section 7. Validity and Severability:

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder of the Local Law shall not be affected

Section 8. State Environmental Quality Review Act (SEQRA):

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law (“SEQRA”) and the regulations adopted hereunder at 6 NYCRR part 617 and find this Local Law to be a Type II Action as defined therein. Therefore, no further review is required under SEQRA.

Section 9. Effective Date:

This Local Law shall take effect immediately upon the filing with the Secretary of State.