

LIVONIA TOWNSHIP
SHERBURNE COUNTY, MINNESOTA
Ordinance No. 2024-01

**AN INTERIM ORDINANCE AUTHORIZING A STUDY AND
PLACING A MORATORIUM ON SOLAR ENERGY FACILITIES**

The Board of Supervisors of the Town of Livonia ordains:

Section 1: Purpose and Intent. The purpose and intent of this interim ordinance (“Ordinance”) is to impose, pursuant to Minnesota Statutes, section 462.355, subdivision 4, temporary restrictions within Livonia Township (“Town”) regarding Solar Energy Facilities during the period of this Ordinance to protect the planning process and the health, safety, and welfare of the citizens of the Town.

Section 2: Legislative Findings. The Town Board hereby finds and determines as follows:

- (a) The Town is a “municipality” for the purposes of the Municipal Planning Act in Minnesota Statutes, chapter 462.
- (b) Minnesota Statutes, section 462.355, subdivision 4 authorizes the Town Board to adopt interim ordinances to regulate, restrict, or prohibit any use, development, or subdivision within the Town.
- (c) Sherburne County (“County”) has adopted the Sherburne County Zoning Ordinance, which allows solar farms in the Town with the issuance of an interim use permit.
- (d) The Town currently does not have any ordinances regulating Solar Energy Facilities.
- (e) The Town Board is aware of an increasing interest in establishing Solar Energy Facilities as part of the commercial production of energy, including the adoption in 2013 of Minnesota Statutes, section 216B.1641 authorizing community solar gardens as part of a legislative effort to promote the growth of solar energy.
- (f) The Town Board has not previously considered the potential impacts of the establishment or expansion of Solar Energy Facilities on the Town and its residents. Given the increased interest in Solar Energy Facilities and the growth of solar energy systems generally, it is more likely the Town will encounter those who desire to establish a Solar Energy Facility in the Town.
- (g) The Town Board determines it is in the best interests of the Town to study whether the Town should adopt zoning regulations to regulate Solar Energy Facilities. Because the Town Board has not adopted general zoning regulations, part of the study will need to consider that if the adoption of zoning regulations is recommended, whether those regulations will be limited to Solar Energy Facilities or if the Town should regulate other uses as well.

Section 3. Definitions. For the purposes of this Ordinance, the following terms shall have the meaning given them in this Section. Any term not defined in this Section shall have the meaning given it in the Development Code, and if not defined therein, it shall have the meaning given it in the most applicable Minnesota Statutes or Rules.

- (a) Accessory Solar Energy System. “Accessory Solar Energy System” means a solar energy system mounted on the roof of a building, or located on the ground (whether on a rack, pole, or on its own foundation) and is not attached to a building, and that is accessory to the principal land use and is designed to supply energy only for the principal use on the same property.
- (b) County. “County” means Sherburne County, Minnesota.
- (c) Ordinance. “Ordinance” means this interim ordinance imposing a moratorium pursuant to Minnesota Statutes, section 462.355, subdivision 4.
- (d) Planning Commission. “Planning Commission” means the Livonia Township Planning Commission.
- (e) Solar Energy Facility. “Solar Energy Facility” means a device, or set of devices, whose primary purpose is to collect solar energy and to convert it for storage or transfer for a useful purpose, including the generation of electricity, heating, cooling, or other energy-using processes, or to produce generated electric power by means of any combination of collecting, transferring, or converting solar-generated energy. This term is to be interpreted broadly to include solar energy capturing systems designed or used for commercial or industrial uses. This term includes Solar Farms which, in turn, includes community solar gardens.
- (f) Solar Farm. “Solar Farm” means solar energy system composed of multiple solar panels on ground-mounted rack or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity. Solar Farms include, but are not limited to, community solar gardens which are defined as a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minnesota Statutes, section 216B.1641 or its successor statute.
- (g) Town. “Town” means Livonia Township, Sherburne County, Minnesota.
- (h) Town Board. “Town Board” means the board of supervisors of Livonia Township.
- (i) Town Supervisor. “Town Supervisor” means a person elected or appointed to the Town Board as a supervisor.

Section 4. Study Authorized. The Town Board shall conduct a study of Solar Energy Facilities as provided in this Section. The Town Board may, but is not required to, establish a working group to assist the Town Board in conducting the study. The working group may include Town Supervisors, residents, business owners, or others as the Town Board determines is appropriate. The study shall consider the different types of commercial and industrial Solar Energy Facilities (including community solar gardens), the types of impacts they may have the benefits of such facilities, and options for regulating them. The Town Board shall work as part of the study to develop a consensus among the Town Supervisors on whether the Town Board should adopt its own regulations regarding Solar Energy Facilities. As part of the study, the Town Board intends to review regulations imposed by the County and other communities, the benefits and impacts of Solar Energy Facilities, and to seek input from the public. If the study results in a recommendation to consider adopting regulations regarding Solar Energy Facilities, the study shall also consider whether the Town should regulate any other uses.

Section 5. Moratorium. A moratorium is hereby imposed on the establishment or expansion of Solar Energy Facility in the Town. During the period of this Ordinance, no person, corporation, or other entity shall establish or expand a Solar Energy Facility in the Town.

Section 6. Exemptions. The moratorium imposed by this Ordinance does not apply to any of the following:

- (a) A Solar Energy Facility classified as a large energy facility under Minnesota Statutes, chapter 216E that is exempt from local regulation under Minnesota Statutes, section 216E.10, subdivision 1, and that is constructed pursuant to a site permit issued by the Minnesota Public Utilities Commission;
- (b) The maintenance or repair of an existing Solar Energy Facility; or
- (c) The placement or expansion of an Accessory Solar Energy System.

Section 7. Application and Duration. This Ordinance shall remain in effect for 12 months from the date of its adoption, until it is expressly repealed by Town Board resolution, or until the effective date of an ordinance regulating Solar Energy Facilities. All inquiries regarding the application of this Ordinance shall be submitted to the Town in writing and the Town Board's decision regarding the matter shall be final. As part of interpreting this Ordinance, the Town Board may issue written clarifications of, and variances from, its terms as needed to effectuate its purpose and intent.

Section 8. Penalty and Enforcement. Any person, firm, partnership, corporation, or other entity violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment for up to 90 days, a fine of up to \$1,000, or both, plus the costs of prosecution. Each day that a violation occurs shall be considered a separate offense. The Town may enforce this Ordinance through criminal prosecution or by undertaking such civil actions or proceedings, including injunctive relief, as it determines appropriate to prevent, restrain, correct, or abate any violation or threatened violation of this Ordinance. The initiation

of one type of enforcement action shall not preclude the Town from instituting any other action or proceeding available to it under law to enforce this Ordinance.

Section 9. Severability. Every section, provision and part of this Ordinance is declared severable from every other section, provision and part thereof. If any section, provision or part of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision or part of this Ordinance.

Section 10. Effective Date. This Ordinance shall take effect immediately upon its adoption.

Adopted this 25th day of March 2024.

BY THE TOWN BOARD

Lila Spencer
Butch Hass, Chairperson
Lila Spencer, vice-chairperson

Attest: Kellie Fick
Deputy - Clerk-Treasurer