

DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Ordinance No. 2016-01

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

The Board of Supervisors of the Town of Denmark 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 Denmark Township (“Town”) regarding solar energy facilities during the period of this Ordinance in order 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, and it has exercised its authority pursuant to that Chapter to adopt the Denmark Township Development Code (“Development Code”);
- (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) Washington County (“County”) has indicated it does not wish to address solar energy facilities as part of its Development Code since it is in the process of substantially withdrawing from administering zoning regulations within townships;
- (d) In 2013, the Minnesota Legislature enacted a bill that contained several provisions designed to promote the growth of solar energy. One such provision, which is codified as Minnesota Statutes, section 216B.1641, created community solar gardens;
- (e) The Town recently worked to process an application requesting an amendment to the Development Code to allow community solar gardens within the Town, which generated strong comments from the public both in favor and against such an amendment. The applicant withdrew the application, but it became clear to the Town Board that further study into whether community solar gardens, and solar energy facilities generally, should be allowed within the Town is needed before the Town can properly entertain any further applications to allow solar energy facilities within the Town;
- (f) The Town’s recent experience made it clear that if another application seeking to amend the Development Code to allow Solar Energy Facilities were to be submitted, the timing limitations contained in Minnesota Statutes, section 15.99 would not allow

the Town sufficient time to fully study and reach a conclusion regarding Solar Energy Facilities before it would need to act to approve or deny the application;

- (g) The Town’s current Development Code does not address solar energy facilities. Because solar energy facilities are not identified as an allowed use, they are currently prohibited under the Development Code. The Town currently allows the placement of solar panels and related facilities on residential properties as an accessory use, provided the electricity generated is used only on the property and all required permits are obtained; and
- (h) Due to the acreage needed to construct community solar gardens and other commercial or industrial solar energy facilities, the lack of current regulations regarding the use, and the differing opinions on whether such facilities should be allowed within the Town, the Town Board determines it is in the best interests of the Town to impose certain interim restrictions on solar energy facilities, as defined herein, to allow sufficient time to study the issue, determine if such facilities should be allowed, and, if they are to be allowed, to develop and adopt the appropriate amendments to the Development Code to appropriately address solar energy facilities moving forward.

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) Community Solar Garden. “Community Solar Garden” means a facility that generates electricity by means of a ground-mounted or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for the electricity generated in proportion to the size of their subscription as provided in Minnesota Statutes, section 216B.1641.
- (b) Development Code. “Development Code” means the most current enactment of the Denmark Township Development Code.
- (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 Denmark 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 Community Solar Gardens,

but does not include solar energy capturing devices installed on residential properties that utilize the solar energy primarily on that residential property.

(f) Town. “Town” means Denmark Township, Washington County, Minnesota.

(g) Town Board. “Town Board” means the board of supervisors of Denmark Township

Section 4. Study Authorized. The Town Board shall conduct a study of Solar Energy Facilities as provided in this Section. The Town Board may call upon the Planning Commission for assistance in conducting the study. The study shall consider the different types of commercial and industrial Solar Energy Facilities, 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 supervisors on whether Solar Energy Facilities should be allowed in the Town and, if so, how best to amend the Development Code to effectively regulate Solar Energy Facilities to avoid or minimize negative impacts to surrounding properties and the public health, safety, and welfare. As part of the study, the Town Board intends to review regulations imposed by other communities and information regarding the growing solar industry, the benefits and impacts of Solar Energy Facilities, and to seek input from the public.

Section 5. Moratorium. A moratorium is hereby imposed so that during the period of this Ordinance the following are prohibited :

- (a) No application for an amendment to the Development Code related to Solar Energy Facilities shall be submitted, accepted, processed, or acted on; and
- (b) The placement, construction, or expansion of a Solar Energy Facility is prohibited.

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 and constructed pursuant to a site permit issued by the Minnesota Public Utilities Commission;
- (b) The maintenance or repair of an existing Solar Energy Facility; and
- (c) The construction, placement, or expansion of solar panels or other solar facilities on residential properties, provided the electricity generated is used primarily on the property.

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 amending the Development Code to address Solar Energy Facilities, whichever occurs first. 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 8th day of March, 2016.

BY THE TOWN BOARD


Kathleen A. Higgins, Chairperson

Attest: 
Becky Herman, Clerk-Treasurer