

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

An organizational meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at the Livonia Town Hall, 35 Commercial Street, Livonia on February 17, 2022.

PRESENT: Eric Gott, Supervisor
Joseph Breu, Councilmember
Peter Dougherty, Councilmember
Andy English, Councilmember
Matt Gascon, Councilmember
Hayley Anderson, Clerk
Jim Campbell, Attorney, Town of Livonia-Present By Phone

OTHERS PRESENT: Several Residents.

The Town Board meeting was called to order by Supervisor Gott at 7:00 PM. PJ Dwyer led the pledge.

Supervisor Gott stated the expectations of the public hearing and asked for respect and consideration from all parties.

PUBLIC HEARING – LOCAL LAW #1 – 2022 -ON SOLAR ENERGY SYSTEMS

Following distribution of the proposed Local Law to the Town Board members on January 20 notice of said Public Hearing was duly published in the Livingston County News on February 3, 2022, with same being posted on the same date at the Town Hall, and Livonia’s web site. Referral was also sent to the Livingston County Planning Board and adjacent municipalities.

Clerk Anderson read the Notices of Hearing for the record.

Supervisor Gott declared the Public Hearings open at 7:05 PM.

Comments:

A resident from Shelly Road read the following:

“I am disappointed in the proposed solar law, and I am disappointed in the approach this board took in creating a one size fits all moratorium on commercial solar production. The board had originally put forth a well thought out and reasonable solar law that would protect the community, prime agricultural land and provide our town with additional tax base while producing power that businesses in our region need. A real win for everyone. It has been almost two years of since a committee was formed to develop a solar law for the community. The law that was originally proposed was hastily dismissed by this

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

board and in essence this new proposed law creates a moratorium on any commercial production outside of a company's own use.

I understand the board and communities concern about solar fields taking up our agricultural land and changing the landscape of our town. As you know I grew up on a farm. I still am there at least once a week helping my father out. I am clearly not a proponent of taking productive agriculture land and filling it with solar panels.

I am also invested in this town. I have done my best over the 20 plus years since Jen and I moved back here to make this community better. I sit on multiple community boards and have given my time and money to make Livonia and Livingston County a better place to live.

I am a proponent of developing the industrial property in this town with productive tax paying businesses. I have approximately 85 acres of industrial property that does not have water or sewer services and according to RGE no available natural gas. This of course limits the opportunities on this property. This is why I have explored a 20-acre solar development on the property with Dimension Solar. It just makes sense under these limitations.

The new proposed solar law would not allow this development. I would hope this board is not against developing industrial property and eliminating opportunity for local business owners?

A solar development like other industrial development increases tax base without utilizing town or school district resources. It just increases tax base. Solar is a pure industrial application.

I am not sure why the board would not see industrially zone property as a perfect fit for solar. It honestly bewilders me.

I did hear at the last public hearing that some property owners did not want to see solar panels in their back yard. The industrial zoned area in the town was identified a long time ago as a suitable area for industry. One reason it is suitable is it is not surrounded or easily viewed by residential properties.

I can't imagine the town is going to determine future development in our industrial zoned areas based on an aesthetic grading scale. Are grain facilities more photogenic than solar panels, should this be a criteria for industrial development? I hope not.

Secondly, I heard at the last public hearing that "All the power just goes to NYC" first this is not even true. But if it even was, should farms then stop growing soybeans in Livingston County and I should shutter my grain elevator because a lot of the soybeans leave that facility go to Norfolk, Virginia and then are exported overseas. Some even reaching China. This is another factor that should not be considered when contemplating industrial development. We are not a society that just produces for our own local uses. That was a century ago.

Dimension Energy's goal is to sell power to businesses in the region under power purchase agreements. If you don't know, we are not only short of natural gas in this market, but electric capacity is also an issue especially for businesses south of the

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

thruway.

I have discussed this proposed law which does not allow commercial solar production on industrial property with many people in town and none can understand how this board would not allow solar panels on industrial property. I am sure if you polled the tax paying members of this town the vast majority would feel the same. It is just reasonable for all parties involved.

I have always found the town board, planning board and ZBA to be reasonable and make decisions that have proved to help our town. I would be very disappointed if the board went against what is reasonable and what I am sure our community would clearly support. Thank you for your time.”

A resident of East Lake Road- Stated that a few years ago he was opposed, in the last 10 years, he has watched solar, and windmills go up, and windmills were all replaced this year, after only 10 years. Solar panels are said to last 25-30 years and asked the board to leave the decision open and let the planning and ZBA boards decide where panels can be placed, because not every situation is the same. He stated he spoke to his neighbors, and they expressed they would rather see solar panels than half a dozen new houses go up. He went on to explain he’s seen the one in Avon and explained that was thought out well. Expressed he would like to see the law left open and not passed. Understands the state can trump the town, anyway, asked for further consideration from the board.

A resident from Hemlock NY- stated he is in favor of the new law. Multiple different models to approach. He explained that if not passes, the accumulative impact could be huge. He reiterated that he is in support of no large scale solar at this point.

Supervisor Gott expressed it is his wish to put together a committee to re-evaluate this situation. Adam Backus stated the code currently is not clear enough.

Supervisor Gott asked if anyone else from the public or the board wished to comment. Supervisor Gott stated that the public hearing would remain open and there would be another opportunity to comment before the hearing was closed.

With everyone who wished to be heard having been heard, the Public Hearing was closed at 8:28 PM

PRIVILEGE OF THE FLOOR

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

Mary Ann Thompson- thanks the board for supporting little lakes and would like to invite the board to an event on March 16th with regional leaders.

Bob Nielson expressed his gratitude and appreciation to Superintendent Dwyer for his hard work.

Councilman Dougherty advised-

T-Ball runs April 26 - June 1st on Tuesday & Thursday 6 to 7 PM at LCS on the fields by the maintenance garage.

The Livonia School pool is open for free swim on Monday & Friday nights from 7 to 8 PM.

Summer Recreation Program
Starts June 29 to August 4, 2022
Grades 1 through 8
Vitale Park - twice
Minnehan's every Thursday.

Residents expressed communication to the community is lacking and really needs to be re-evaluated as well. Clerk Anderson advised that is a task she is working on.

RESOLUTION 24-2022

TOWN CLERK REPORT

Paid to Supervisor for the General Fund	\$2229.52
Paid to County Treasurer for Dog Licenses	206.50
NYS Comptroller's Office (Bingo and Games of Chance Licenses)	0.00
Paid to NYS Ag & Markets for the Spay/Neuter Program	73.00
Paid to NYS Environmental Conservation for Hunting/Fishing Licenses	8.72
State Health Department (marriage licenses)	0.00
TOTAL DISBURSEMENTS	\$2517.74

Tax Collection is going well. Clerk and Deputy Clerk have manually re-mailed, emailed, and printed in person for residents to deliver tax bills promptly.

Covid Tests are Available for pickup still. Do not have masks.

New Phones should be installed in March, and Clerk Anderson was able to contract

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

below budget and original quote.

On motion of Councilmember Dougherty seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
 Nays – 0

Resolved to approve Clerk Anderson’s report.

RESOLUTION 25-2022

APPROVE MEETING MINUTES FROM 01/20/2022

On motion of Councilmember Breu seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
 Nays – 0

Resolved to approve the meeting minutes from 01/20/2022

RESOLUTION 26-2022

DECLARE THE TOWN BOARD AS LEAD AGENCY FOR PURPOSES OF THE SEQR REVIEW

Attorney Campbell briefly explained the SEQR process to the Board.

Attorney Campbell explained that Part 1 of the Full Environmental Assessment Form (FEAF) is a description of the proposed action of adopting a local law to establish regulations for large scale battery energy storage systems.

Attorney Campbell then moved on to explaining the process for completing Part 2 of the FEAF, which would involve the Board being asked a series of questions. Attorney Campbell went through the series of questions on Part 2 of the FEAF and the Board answered all of them with “No or small impact.”

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
 Nays – 0

Resolved to name the Town of Livonia Town Board the lead agency for purposes of the

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

SEQR review.

RESOLUTION 27-2022

DECLARE LL#1-2022 AS TYPE 1 ACTION UNDER SEQR REVIEW

On motion of Councilmember English seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to declare the proposed action as a Type 1 action under SEQR.

Attorney Campbell briefly explained the SEQR process to the Board.

Attorney Campbell explained that Part 1 of the Full Environmental Assessment Form (FEAF) is a description of the proposed action of adopting a local law to establish regulations for large scale battery energy storage systems.

Attorney Campbell then moved on to explaining the process for completing Part 2 of the FEAF, which would involve the Board being asked a series of questions. Attorney Campbell went through the series of questions on Part 2 of the FEAF and the Board answered all of them with “No or small impact.”

Following the Board answering those questions on Part 2, a Motion was made.

RESOLUTION 28-2022

ADOPT SPECIFIC FINDINGS FOR PART 2 OF FEAF

On motion of Councilmember Breu seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to adopt the specific findings for Part 2 of the FEAF.

Attorney Campbell then proceeded to explain Part 3 of the FEAF, that being the determination of significance. Attorney Campbell further explained that because the Board answered “No” to all of the questions in Part 2, the next logical step for the Board would be to make a finding that no significant, negative environmental consequences will occur as a result of adoption of the proposed Local Law and to issue a Negative Declaration.

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

RESOLUTION 29-2022

DETERMINATION OF SIGNIFICANCE AND TO DECLARE A NEGATIVE DECLARATION

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to declare a Negative Declaration for LL #1-2022.

RESOLUTION 30-2022

AUTHORIZE SUPERVISOR GOTT TO SIGN SEQR DOCUMENTS

On motion of Councilmember Gascon seconded by Councilmember English a Motion was made for Supervisor Gott to sign all SEQR documents.

ADOPTED Ayes - 5 (Gott, Dougherty, English, Gascon, Breu)
Nays – 0

Resolved to authorize Supervisor Gott to sign all SEQR documents.

RESOLUTION 31-2022

AUTHORIZATION FOR TOWN CLERK ANDERSON TO FILE NEGATIVE DECLARATION WITH ENB

On motion of Councilmember Breu seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to authorize the Town Clerk to file the Negative Declaration with the Environmental Notice Bulletin.

RESOLUTION 32-2021

ADOPTION OF PROPOSED LOCAL LAW #1-2022-SOLAR ENERGY SYSTEMS BY ROLL CALL VOTE

As the first Local law to be adopted in the year 2022, this will be Local Law #1-2022.

See end of minutes.

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

ADOPTED

Supervisor Gott-Nay
Councilmember Dougherty-Nay
Councilmember English-Aye
Councilmember Gascon-Aye
Councilmember Breu-Aye

Resolved to adopt the proposed Local Law relating to Solar Energy Systems, being Local Law # 1 of 2022.

RESOLUTION 33-2022

SIGNAGE AT VITALE PARK

On motion of Councilmember English seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to approve Supervisor Gott to sign Contract for new sign at Vitale Park with sign blazer at a cost of \$550.00 for the sign and \$280.00 for the stand.

HIGHWAY EMPLOYEE PAY DISCUSSION

An employee expressed concern about the Union contract and pay. Superintendent Dwyer brought forward some ideas about incremental increases. Hiring people at the same rate of pay makes it difficult to incentivize employees. The applicant pool would increase as well with the ability to offer pay according to experience. Currently two years left in the contract.

Councilmember English expressed he would not agree with a new employee making the same as a long-term employee. Superintendent Dwyer states that he did have in the contract that no new employee would make the same pay as a veteran employee.

RESOLUTION 34-2022

HIGHWAY EMPLOYEE PAY

On motion of Councilmember Breu seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0-

Resolved to allow Jim Campbell to draft a memorandum of understanding with the union.

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

RESOLUTION 35-2022

CONSULTING SERVICES WITH BONADIO GROUP

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0-

Resolved to authorize Supervisor Gott to sign the contract with Bonadio Group for the purpose of consulting services to implement GASB 87 Leases.

RESOLUTION 36-2022

CONSULTING SERVICES WITH BONADIO GROUP-CUSTODIAL ACCOUNT

On motion of Councilmember Gascon seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0-

Resolved to authorize Supervisor Gott to sign the contract with Bonadio Group for the purpose of consulting services for the custodial account calculations for AUD.

RESOLUTION 37-2022

DISABILITY PAY POLICY

On motion of Councilmember Breu seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to approve no wait time, Pay out at 90% of wages, and allow employees to use their sick time to make up the other 10%.

RESOLUTION 38-2022

EMPLOYEE TITLE CHANGE-BETTY PRIBANICH FROM PT CLERK TO PAGE

On motion of Councilmember Dougherty seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

Resolved to change Betty Pribanich's job title from Clerk, PT to Page Effective 12/2/21

RESOLUTION 39-2022

APPOINT ALISON HOUK AS CLERK-PART TIME

On motion of Councilmember Breu seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays - 0

Resolved to approve the appointment of Alison Houk as Clerk-Part Time effective 2/16/2016 at a rate of pay of 17.60/hour.

RESOLUTION 40-2022

APPOINT MORGAN CENDOMA AS PART TIME TECHNOLOGY COORDINATOR

On motion of Councilmember Dougherty seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays - 0

Resolved to approve the appointment of Morgan Cendoma as Part Time Technology Coordinator effective 02/07/2022 at a rate of pay of \$18.50

RESOLUTION 41-2022

PUBLIC HEARING – LOCAL LAW #1 – 2021 -ON SOLAR ENERGY SYSTEMS

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays - 0

With everyone who wished to be heard having been heard, the Public Hearing was closed for verbal comment at 8:28 PM.

RESOLUTION 42-2022

AUDIT OF CLAIMS

On motion of Councilmember English seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays - 0

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

Resolved to pay claims # 95 in the amount of \$304.77 from the Abstract dated January 21, 2022

RESOLUTION 43-2022

AUDIT OF CLAIMS

On motion of Councilmember Dougherty seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to pay claims 93-135 in the amount of \$101,435.99 from the Abstract dated February 2, 2022.

RESOLUTION 44-2022

AUDIT OF CLAIMS

On motion of Councilmember Breu seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to pay claims 136-182 in the amount of \$97,078.82 from the Abstract dated February 17, 2022.

RESOLUTION 45-2022

ENTERED EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION

On motion of Councilmember Dougherty seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to enter executive session at 8:54pm

RESOLUTION 46-2022

RETURN TO OPEN SESSION

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

Nays – 0

Resolved to enter open session at 9:10PM

RESOLUTION 47-2022

HIRE LAW FIRM TO DEFEND CIVIL LAWSUIT

On motion of Councilmember English seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, Breu, Dougherty, English, Gascon)
Nays – 0

Resolved to hire Mike McClaren and Webster Szanyi Law Firm to represent the Town of Livonia and work with James Campbell.

With no further business, on a motion of Councilmember Gascon seconded by Councilmember Breu the meeting was adjourned at 9:12PM. Carried unanimously.

Respectfully Submitted,

Hayley Anderson
Town Clerk

TOWN OF LIVONIA

LOCAL LAW NO. 1 OF THE YEAR 2022

A Local Law Entitled “Adding Article XVII of Chapter 150 of the Zoning Ordinance of the Town of Livonia Regarding Solar Energy Systems.”

Be it enacted by the Town Board of the Town of Livonia as follows:

A new Article XVII of Chapter 150 of the Zoning Ordinance of the Town of Livonia shall be established hereby and shall read as follows:

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

Article XVII Solar Energy Systems

§150-161. Authority and Legislative Intent.

The Town Board of the Town of Livonia states the following as its findings and legislative intent:

- A. This Local Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of Livonia to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and to provide for, so far as conditions may permit, the accommodation of Solar Energy Systems (as hereafter defined) and equipment which generate electricity primarily for on-site use.

- B. This Solar Energy Law is adopted to permit the construction of Solar Energy Systems in the Town of Livonia in a manner that advances and protects the public health, safety and welfare of the Town of Livonia while facilitating the production of renewable energy. In so doing, this Chapter seeks to:
 - (1) Take advantage of a safe, abundant, renewable and non-polluting energy resource.
 - (2) Preserve and protect the natural resources and Prime Farmland/Farmland of Statewide Importance within the Town of Livonia in accordance with the Town's Comprehensive Plan.
 - (3) Permit solar installations as hereinafter defined in all zoning districts for the production of renewable energy to be used principally on-site, subject to reasonable conditions to mitigate potential impacts to adjoining properties and preserve neighborhood aesthetics.

§150-162. Findings of Town Board.

The Town Board of the Town of Livonia makes the following findings:

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

- A. The Town Board of the Town of Livonia has previously adopted a Temporary Moratorium concerning the siting and construction of large scale or commercial/industrial Solar Energy Systems within the Town of Livonia. In connection with its review of this subject, the Town Board has recognized the desirability of promulgating regulations as to the siting and construction of Solar Energy Systems in other applications.

The Town Board of the Town of Livonia has not prohibited the erection or creation of small-scale Solar Energy Systems intended to primarily benefit the property on which the Solar Energy System is located. To date, existing Solar Energy Systems in the Town of Livonia have been built and used in residential applications.

- B. The Town Board of the Town of Livonia recognizes that solar energy can be a clean, readily available and renewable energy source. At this time, the Town of Livonia intends to accommodate the use of Solar Energy Systems in the context of residential and agricultural applications, as well as single-user commercial applications in which the Solar Energy System provides energy for the commercial property, but is not intended to create sufficient excess solar energy to make its resale as a marketable commodity the purpose of the Solar Energy System, but rather an incidental or subordinate product thereof. The Town Board's determination not to allow Large-Scale Solar Energy Systems (as hereinafter defined) is based on the Town's farmland protection objectives, recognition of unique local conditions, i.e. the prevalence of highly productive soils throughout the entire Town, recognition that fragmentation of the land base is counter to local objectives and threatens the sustainability of agriculture.
- C. The Town Board acknowledges and finds a growing need to properly site Solar Energy Systems within the boundaries of the Town of Livonia so as to protect the large abundance of Prime Farmland/Farmland of Statewide Importance within the Town, residential properties, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Livonia, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Livonia.
- D. Prior to the adoption of this Chapter, no specific procedures existed to address the siting of Solar Energy Systems or to mitigate their potential

REGULAR MEETING, TOWN OF LIVONIA

February 17, 2022

impact upon adjoining properties or the public view shed. Accordingly, the Town Board finds that the promulgation of this article is necessary to direct the location and construction of these systems.

- E. Solar Energy Systems need to be regulated for removal when no longer utilized.

§150-163. Definitions.

The following definitions shall apply to this Chapter:

APPLICANT: The person or entity filing an application and seeking approval under this Chapter.

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in material aspects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed directly or indirectly to the ground or land surface, rather than attached to the wall or roof of a structure. Said system is designed and intended to generate electricity solely

REGULAR MEETING, TOWN OF LIVONIA

February 17, 2022

for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption. Large-Scale Solar Energy Systems are not authorized or permitted in any zoning district within the Town of Livonia and are specifically intended to be a prohibited use within the Town of Livonia.

PRIME FARMLAND: Prime Farmland - Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the roof of a building and wholly contained within the limits of the roof surface. Said system is designed and intended to generate electricity solely for use on the lot (upon which the structure containing the Solar Energy System is located), potentially for multiple tenants, through a distribution system that is not available to the general public.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the uses of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all of the land inside the perimeter of the Solar Energy System which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2 or Tier 3 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems include the following:
 - (1) Roof-Mounted Solar Energy Systems
 - (2) Building-Integrated Solar Energy Systems
- B. Tier 2 Solar Energy Systems are Ground-Mounted Solar Energy Systems that generate no more than 110% of the electricity consumed on the site or more than one site or piece of property within the jurisdictional limits of the Town of Livonia owned by the same person, entity, farm or business over the previous 12 months. Tier 2 Solar Energy Systems may include Solar Energy Systems that are developed, operated and maintained by a third-party by lease agreement or through a power purchase agreement, but in no event shall such systems produce power in excess of the 110% total consumption as referenced immediately above.
- C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

UNIFIED SOLAR PERMIT: An expedited solar permitting process has been developed by the NY-Sun public-private partnership, which process utilizes a standard, unified permit across municipalities in New York State.

§150-164. Applicability. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Livonia shall be permitted only as follows:

- A. A building permit issued by the Town of Livonia Building Department shall be required for the installation of any Solar Energy System.

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

- B. All Solar Energy Systems existing on the effective date of this local law shall be allowed to continue in usage as such presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply with the requirements of this chapter.
- C. No Solar Energy System shall hereafter be erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”) and the Town of Livonia Code.
- E. Any applications pending for Solar Energy Systems on the effective date of this local law shall be subject to the provisions of this law.
- F. This local law shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Livonia.

§150-165. Use Districts Where Allowed. Subject to the provisions of this Chapter, certain Solar Energy Systems shall be allowed as follows:

- A. Tier 1 Solar Energy Systems are permitted outright in all zoning districts in the Town.
- B. Tier 2 Solar Energy Systems are permitted as accessory structures in all zoning districts in the Town.
- C. Tier 3 Solar Energy Systems are prohibited in all zoning districts in the Town.
- D. Any inconsistent provisions of the Zoning Law which purport to or may be interpreted to regulate or to allow Solar Energy Systems other than as set forth in this Chapter are hereby superseded.

§150-166. Permitting Requirements for Solar Energy Systems.

REGULAR MEETING, TOWN OF LIVONIA

February 17, 2022

- A. Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following requirements for each type of Solar Energy System:

(1) Roof-Mounted solar energy Systems may be attached to any lawfully permitted building or structure and shall incorporate the following design requirements:

- a. Roof-Mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
- b. Solar panels on pitched roofs shall be mounted with a maximum distance of 12 inches between the roof surface and the highest edge of the system.
- c. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- d. Glare: All Solar Panels shall have anti-reflective coating(s).

(2) Building-integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for any building containing such system and shall meet the following requirements:

- a. Building-mounted solar energy systems shall not be located or extend more than 7 feet from the building wall and in no instance shall any part of the system extend beyond the roof line or parapet wall.

- B. Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures.

Site plan approval is required for Tier 2 Solar Energy Systems to be built or modified for the production of electricity principally for on-site use for

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

a commercial or industrial business within the Town of Livonia.

All other Tier 2 Solar Energy Systems, including systems for farm operations, are exempt from site plan approval.

- (1) Tier 2 Solar Energy Systems shall be subject to the following requirements:
 - a. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations for a building or accessory structures within the underlying zoning district, whichever setback is greater.
 - b. Location: Tier 2 Solar Energy Systems shall be located in the side or rear yard of a property. No placement in a front yard shall be permitted unless the location is a minimum distance of (200) feet from the road and entirely concealed from view from the road due to topography or landscape conditions that must be maintained for the duration of the installation of said system.
 - c. Height: Tier 2 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.
 - d. Glare: All Solar Panels shall have anti-reflective coating(s).
 - e. Screening and Visibility: All Tier 2 Solar Energy Systems shall be screened so that the view of such systems is minimized from adjacent properties to the extent reasonably practicable. Evergreen tree plantings may be required to screen portions of the site from nearby residential property, public roads, and from public sites known to contain important views or vistas, such as gateway entrances to the Town. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

- (2) Tier 2 Solar Energy Systems within Agricultural Residential Conservation - 3 Districts (ARC-3), Agricultural Residential Conservation - 5 Districts (ARC-5) and which are a part of a farm operation as defined by Article 25 AA of the New York State Agriculture and Markets Law, shall not be subject to site plan review and shall be subject to the following requirements:
 - (a) Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations for a building or accessory structures within the underlying zoning district, whichever setback is greater.
 - (b) Height: Tier 2 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.
 - (c) Glare: All Solar Panels shall have anti-reflective coating(s).
- C. Solar storage batteries. When solar storage batteries are included as part of any Solar Energy System, they shall be placed in secure container or enclosure meeting the requirements of the New York State Building Code. Such solar storage batteries shall only be permitted for purposes of storing energy for use on site and in conjunction with a permitted Solar Energy System. Large Scale Solar Energy Storage Systems are not permitted in any zoning district within the Town.
- D. All Solar Energy Systems shall adhere to all applicable federal, state, county and Town of Livonia codes, laws, regulations and building, plumbing, electrical and fire codes.
- E. Any Solar Energy System shall be situated in a location which shall be readily accessible for all emergency service vehicles and personnel.
- F. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
- G. The design, construction, operation and maintenance of any Solar Energy System shall prevent the misdirection and/or reflection of solar rays onto

REGULAR MEETING, TOWN OF LIVONIA

February 17, 2022

neighboring properties, public roads and public parks in excess of that which already exists.

- H. The development and operation of a Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Livonia or other federal or state regulatory agencies.
- I. Artificial lighting of any Solar Energy Systems shall be limited to lighting required for safety and operational purposes only, and shall be shielded from all neighboring properties and public roads so as to prevent the illumination of adjoining properties or excessive lighting.
- J. If the use of an approved Solar Energy System is discontinued, the owner or operator shall notify the Building Inspector within thirty (30) days of such discontinuance. If a Solar Energy System is to be retained and reused, the owner or operator shall further inform the Building Inspector of this in writing at such time and obtain any necessary approvals within one year, otherwise it shall be automatically deemed abandoned.

§150-166. Maintenance, procedures and fees.

- A. Time limit on completion. After the granting of site plan approval of a Ground-Mounted Solar Energy System by the Planning Board, the building permit shall be obtained within six (6) months and the project shall be completed within twelve (12) months. If not constructed, the permit and/or site plan approval shall automatically lapse twelve (12) months after the date of approval by the Town of Livonia Planning Board. A new application will be subject to ordinary review and approval to obtain a new building permit.
- B. Inspections. Upon reasonable notice, the Town of Livonia Building Inspector or his or her designee may enter a lot on which a Solar Energy System has been constructed for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Any fee or expense associated with this inspection shall be borne entirely by the permit holder. Consent to such inspection shall be deemed given by the applicant upon submission and granting of A Unified Solar Permit.

REGULAR MEETING, TOWN OF LIVONIA

February 17, 2022

- C. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a site plan or building permit.
- D. Continued operation. A Solar Energy System shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Building Inspector shall also have the right to request documentation from the owner for a Solar Energy System regarding the system's usage at any time.
- E. Removal and Soil Remediation. All Ground-Mounted Solar Energy Systems shall be dismantled and removed immediately from a lot where the permit or approval has been revoked by the Town of Livonia Planning Board or the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than three hundred and sixty-five (365) days, which said dismantling and removal shall be at the cost of the Solar Energy System owner. Removal of all equipment and infrastructure and remediation of soil and vegetation in the entire area which supported the installation shall be required to be returned to its original state (prior to construction), within three hundred and sixty-five (365) days of such revocation of the permit or approval, or after having been deemed inoperative or abandoned. This work shall be inspected and approved for satisfactory compliance by the Town Code Enforcement Officer. If the Solar Energy System owner, applicant, successor or landowner (if different) does not dismantle and remove from the premises said Solar Energy System as required, and does not restore and remediate the soil so as to support vegetation and plant life of the type that would have been supported on said site prior to the installation of the Solar Energy System, the Town Board may, after a hearing at which the Solar Energy System owner, applicant, successor or landowner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and/or remediate the site and place the cost of removal and/or remediation as a tax lien on said parcel, regardless of whether the owner of the parcel owned or leased the Solar Energy System. The Town Board shall also be authorized to maintain an action at law to compel the Solar Energy System owner, applicant, successor or landowner to accomplish such removal and remediation, but the Board cannot be required to exercise this remedy, which shall be available to it in its reasonable discretion.

REGULAR MEETING, TOWN OF LIVONIA

February 17, 2022

- F. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the Solar Energy System owner, applicant, successor or landowner with written notice by personal service or certified mail. Any appeal by the Solar Energy System owner, applicant, successor or landowner of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Livonia Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the three hundred and sixty-six (366) days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the Solar Energy System shall automatically expire.
- G. Application and annual fees.
- (1) Site plan application for Ground-Mounted Solar Energy Systems. An applicant shall pay the standard site plan review fee as determined from time to time by the Town Board, by resolution.
 - (2) Fee for issuance of a building permit. In addition to any site plan application fee, an applicant shall pay a building permit fee for a:
 - (a) Building-Mounted, Ground-Mounted or Rooftop-Mounted Solar Energy System: one-half of one percent of the project cost, or such other amount as the Town Board may, from time to time, determine by resolution.
- H. Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county and local permits have been obtained.
- I. In the context of the requirement of site plan approval, the Town of Livonia Planning Board may:
- (a) For Ground-Mounted Solar Energy Systems when review is required by the Board pursuant to this article, grant site plan

REGULAR MEETING, TOWN OF LIVONIA
February 17, 2022

approval, deny site plan approval or grant site plan approval with written stated conditions. Denial of site plan approval shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a site plan approval, the applicant shall obtain a building permit for the Ground-Mounted Solar Energy System.

- J. Any changes or alterations after construction to a Ground-Mounted Solar Energy System shall be done only by amendment to any previously issued building permit and/or site plan (if required) subject to all requirements of this Code.

§150-167. Revocation. If the applicant violates any of the conditions of its building permit, site plan approval or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the building permit or site plan approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Livonia Planning Board holds a hearing on same.

§150-168. Applicability; Interpretation; conflict with other law. In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern. The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair.

§150-169. Severability. If any section, subsection, phrase, sentence or other portion of this article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§150-170. Effective date. This Local Law shall take effect immediately upon filing with the Secretary of State of New York.