

ORDINANCE 157, FOURTH SERIES

AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A MORATORIUM ON THE ESTABLISHMENT, CONSTRUCTION OR EXPANSION OF RENEWABLE ENERGY FACILITIES WITHIN THE CITY OF PIPESTONE

THE CITY OF PIPESTONE ORDAINS:

Article I. Purpose and Intent. The purpose and intent of this interim ordinance (“Ordinance”) is to temporarily prohibit, pursuant to Minnesota Statutes, section 462.355, subdivision 4, the establishment, construction, or expansion of renewable energy facilities within the City of Pipestone (“City”) during the period of this Ordinance in order to protect the planning process and the health, safety, and welfare of the citizens of the City.

Article II. Legislative Findings. The City Council hereby finds and determines as follows:

- (a) The City is a “municipality” for the purposes of the Municipal Planning Act in Minnesota Statutes, chapter 462, and it has adopted the Zoning Ordinance of the City of Pipestone, in addition to an ordinance amending Chapter 153.17 of the City Code with regard to solar and wind energy conversion systems (collectively, the “Zoning Ordinance”);
- (b) The Zoning Ordinance includes regulations with regard to renewable energy facilities, including solar energy and wind energy facilities and systems, but upon receipt of numerous inquiries with regard to the establishment of renewable energy facilities within the City, and review of those inquiries and the current Zoning Ordinance regulations by City staff and the City Attorney, it became clear that the City must further study the use and regulation of renewable energy facilities within the City, whether the Zoning Ordinance sufficiently addresses all forms of renewable energy facilities, whether certain facilities should be allowed within certain zoning districts with the City, and if so, whether the existing performance standards and other controls are necessary and sufficient before the City can properly entertain any further applications to allow the establishment, construction or expansion of renewable energy facilities within the City;
- (c) In light of (1) the increased interest in renewable energy facilities, (2) the availability of property within the City for the development of large renewable energy facilities, (3) the potential impacts of such facilities on the health, safety, and welfare of the citizens of the City and (4) the insufficiency of current City regulations regarding renewable energy facilities, the City Council determines it is in the best interests of the City to impose certain interim restrictions on renewable 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 Zoning Ordinance to appropriately address renewable energy facilities moving forward;
- (d) Performance standards and other controls that may be necessary include, but are not limited to, setbacks, buffers and screening regulations, height limitations, vegetation/ground cover

requirements, regulation of connections to City rights-of-way, lighting regulations, and decommissioning and stormwater requirements;

- (e) The City of Pipestone Planning Commission will conduct a study for the purpose of determining whether to amend the Zoning Ordinance to address renewable energy facilities in order to protect the public health, safety and welfare, as well as to protect public roads and resources; and
- (f) The City Council determines it is in the best interests of the City to impose a moratorium on the establishment, construction, or expansion of renewable energy facilities within the City to allow sufficient time for the Planning Commission to undertake the study and make recommendations to the City Council for a final determination as to whether the City should amend its Zoning Ordinance and, if so, to determine the additional standards and regulations that are appropriate to protect the City and its residents regarding such uses.

Article III. 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 Zoning Ordinance, and if not defined therein, it shall have the meaning given it in the most applicable Minnesota Statute or Rule:

- (a) City. “City” means the City of Pipestone, Pipestone County, Minnesota.
- (b) City Council. “City Council” means the City Council of the City of Pipestone, Pipestone County, Minnesota.
- (c) Existing Renewable Energy Facility. “Existing Renewable Energy Facility” means a lawfully established Solar Energy Facility or Wind Energy Facility that, prior to the effective date of this Ordinance, has obtained all final approvals required by all regulatory bodies to operate without any additional permits or permissions.
- (d) Expansion. “Expansion” means any increase in a dimension, size, area, facilities, volume, or height of an Existing Renewable Energy Facility, or any increase in the intensity of an Existing Renewable Energy Facility based on a review of its original nature, function, purpose, or permitted scope.
- (e) Ordinance. “Ordinance” means this interim ordinance imposing a moratorium pursuant to Minnesota Statutes, section 462.355, subdivision 4.
- (f) Planning Commission. “Planning Commission” means the City of Pipestone Planning Commission.
- (g) Renewable Energy Facility. “Renewable Energy Facility” includes a Solar Energy Facility and a Wind Energy Facility, as defined in this Ordinance.
- (h) 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, non-commercial, residential or industrial uses and includes a “community solar garden” as set forth in Minnesota Statutes, section 216B.1641.

- (i) Wind Energy Facility. “Wind Energy Facility” means an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy, and meteorological towers erected primarily to measure wind speed and direction plus other data relevant to the Wind Energy Facility. The energy maybe used on-site or distributed into the electrical grid.
- (j) Zoning Ordinance. “Zoning Ordinance” means the most current enactment of the Zoning Ordinance of the City of Pipestone and the ordinance amending Chapter 153.17 of the City Code with regard to solar and wind energy conversion systems.

Article IV. Study Authorized. The City Council hereby authorizes and directs the Planning Commission to conduct a study of Renewable Energy Facilities. The study shall consider the different types of Renewable Energy Facilities, the impacts they may have, the benefits of such facilities, and options for regulating them. The Planning Commission shall work as part of the study to determine whether Renewable Energy Facilities should be allowed in the City and, if so, how best to amend the Zoning Ordinance to effectively regulate Renewable Energy Facilities to avoid or minimize negative impacts to surrounding properties and the public health, safety, and welfare. As part of the study, the Planning Commission may review regulations imposed by other communities and information regarding the growing solar industry, the benefits and impacts of Renewable Energy Facilities, and to seek input from the public.

Article V. Moratorium. A moratorium is hereby imposed on the establishment, construction or expansion of Renewable Energy Facilities within the City during the period of this Ordinance. During the period of the moratorium, it shall be a violation of this Ordinance for any person, firm, partnership, corporation, or other entity to establish, construct, or expand a Renewable Energy Facility within the City.

Article VI. Exemptions. The moratorium imposed by this Ordinance does not apply to the following:

- (a) A Renewable Energy Facility that is classified as a large energy facility under Minnesota Statutes, chapter 216E, is exempted from local zoning regulations under Minnesota Statutes, section 216E.10, subdivision 1, and is constructed pursuant to a site permit issued by the Minnesota Public Utilities Commission; or
- (b) The maintenance or repair of an Existing Renewable Energy Facility.

Article VII. Application and Duration. This Ordinance shall remain in effect for 12 months from the date of its adoption, until it is expressly repealed by City Council resolution, or until the effective date of an ordinance amending the Zoning Ordinance to address Renewable Energy Facilities, whichever occurs first. All inquiries regarding the application of this Ordinance shall be submitted to the City in writing and the City Council’s decision regarding the matter shall be final. As part of interpreting this Ordinance, the City Council may issue written clarifications of its terms as needed to effectuate its purpose and intent.

Article VIII. 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 City 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 City from instituting any other action or proceeding available to it under law to enforce this Ordinance.

Article IX. Severability. Should any section or part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

Article X. Effective Date. This Ordinance shall take effect immediately upon its adoption.

Adopted this 1st day of July, 2024.

/s/ Rodger Smidt

Rodger Smidt
Acting-Mayor

ATTEST: /s/ Deb Nelson
Deb Nelson
City Administrator

Date of Publication July 3, 2024

Effective Date: July 4, 2024