

**DUPLIN COUNTY
AN ORDINANCE REGULATING THE
SITING, OPERATION AND MAINTENANCE OF SOLAR ENERGY
GENERATING FACILITIES**

Purpose

The purpose of this ordinance is to facilitate the siting, construction, installation and operation of solar energy generations facilities in Duplin County in a manner that promotes economic development and ensures the protection of the health, safety and general welfare of the citizens while also avoiding adverse impacts to adjacent land uses and property owners.

Upon the recommendation of the Duplin County Planning Board, the Duplin County Board of Commissioners desires to enact this ordinance regulating the siting, operation and maintenance of solar energy generating facilities in the unincorporated areas of Duplin County,

SECTION I - TITLE

This ordinance may be known and may be cited as "Ordinance Regulating the Siting, Operation and Maintenance of Solar Energy Facilities in Duplin County".

SECTION II - DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word "shall" is mandatory and not discretionary.

Building: Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Fence/Barrier: A continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of soil, wood, stone, steel, or other metal, or any substance of a similar nature and strength.

Gate: A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

Improved Area: Area containing perimeter fencing, solar panels, electrical inverters, storage buildings and access roads.

Opaque Fence: A continuous opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of soil, wood, stone, steel, or other metal, or any substance of a similar nature and strength which will conceal the solar energy facility from view.

Operator: The person(s), entity or company that engages in or runs a solar energy facility.

Owner: The person(s), entity or company having legal title to the subject property wherein the solar energy facility is located.

Public Road: Any road or highway which is now or hereafter maintained by the North Carolina Department of Transportation as part of the State Highway System. Setbacks for improved areas shall be measured from the road right of way.

Residence: A building used as a dwelling for one or more families or persons.

Residential Area: Any area within one tenth mile of a solar energy facility having twenty five or more dwellings.

Solar Energy Facility: An energy generating facility or area principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems and related appurtenances. This definition shall only include those facilities whose primary purpose is to sell electricity to be used off site.

SECTION III - PROHIBITIONS

It shall be unlawful after the effective date of this Ordinance for any person, firm, or corporation, or other legal entity to construct, establish modify or expand a solar energy generating facility within the jurisdiction of Duplin County until a site plan for such has been approved by the Duplin County Planning Board.

SECTION IV - LOCATION

- A. All solar energy facilities proposed to be located in areas covered by the 2009 Duplin County Airport Land Use and Height Restriction Ordinance adopted May 1, 2009, or subsequent amendments to said ordinance, must be permitted by the Duplin County Planning Department in accordance with Article VIII of said Ordinance.
- B. All improved areas, including disposal areas, shall be at least 60 feet from a public road and 25 feet from a fence line. In the event that an opaque fence is installed the setback may be reduced to 20 feet.
- C. Improved areas shall be at least 300 feet from any residence or church, measured from the principal building. In the event there is no residence or church within 300 feet from the improved areas, then the improved area shall be at least 50 feet from the property line.
- D. All access roads and storage areas shall be established on a 30 feet minimum easement to a public right of way.
- E. All solar energy facilities shall have a minimum landscape buffer of 25 feet along the perimeter of the improved area. The buffer shall contain evergreen trees or bushes planted no

more than 8 feet apart and at least 4' tall at time of planting. The buffer shall obtain a height of 7 feet within 3 growing seasons. The trees or bushes may be trimmed but no lower than a height of 7 feet. Facility operators shall utilize good husbandry techniques with respect to maintaining the landscape buffer, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed twelve inches in height. A buffer area will not be required between a solar energy facility and adjacent industrial, agriculture, timber or commercial land uses. A planted buffer will not be required if an opaque fence is installed.

- F. All solar energy facilities shall have a fence or continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of soil, wood, stone, steel, or other metal, or any substance of a similar nature and strength.

SECTION V - SECURITY

Solar energy facilities shall be fenced completely as defined in Section Two above. The perimeter fence shall be designed to restrict unauthorized access.

SECTION VI - SUPPLEMENTAL REGULATIONS

- A. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
- B. On site power lines between solar panels and inverters shall be placed underground.
- C. The design of solar energy facilities buffers shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
- D. If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
- E. The applicant must obtain from NC Department of Transportation a driveway permit.
- F. A copy of the Purchase Power Application with the utility company that will be purchasing electricity from the proposed site shall be provided to the County Planning Department prior to the Duplin County Building Inspections issuing a permit.
- G. An affidavit or evidence of an agreement or property lease between the property owner and the facility's owner or operator confirming the owner or operator has permission of the

property owner to apply for the necessary permits for construction and operation of the solar energy facility.

- H. Any other relevant studies, reports, certificates and approval as may be reasonably required by the county.
- I. A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.
- J. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
- K. It is the responsibility of the parcel owner to remove all obsolete or unused systems within 12 months of cessation of operations. Reusable components are to be recycled whenever possible. Notification shall be sent to the County Planning Department prior to cessation of operations

SECTION VII - SITE PLAN / ELECTRICAL & STRUCTURAL DRAWINGS REQUIRED

- A. Owners or operators of solar energy facilities established after the effective date of this Ordinance shall present three copies of a site plan which conform to the standards of this Ordinance to the Duplin County Planning Department. The site plan shall depict and include improved areas, setbacks, panel sizes, location of property lines, buildings and road right of ways etc... in sufficient detail to illustrate the design and situation of the improvements on the property.
- B. The Planning Board shall review the site plan to insure conformity with the requirements of this Ordinance. No new solar energy facility shall be operated until the site plan has been approved by the Duplin County Planning Board; provided, however, that if the Planning Board has not taken action within ninety (90) days after the first Planning Board meeting after the submission of the site plan, said site plan will be deemed to be approved.
- C. The Planning Board may grant a variance to these requirements based upon good cause shown. Applications for such variance shall be made to the Duplin County Planning Department.
- D. Appeals of a Planning Board decision shall be to the Duplin County Board of Commissioners.
- E. Upon approval from the Duplin County Planning Board, as well as any other Federal, or State Agency the person, firm, or corporation shall be required to submit two (2) copies of the approved site plans, two (2) copies of the engineered electrical and structural plans to the Duplin County Building Inspections Department. Application for Electrical and Building Permits in accordance with applicable provisions of the General Statutes shall be due at the time of plan submittal to the Duplin County Building Inspections Department. After approval

of the Electrical and Structural drawings a permit may be issued for work to begin. Inspections will be made accordingly to the advancement of construction to assure compliance in accordance with applicable provisions of the General Statutes. After all inspections are completed, a certificate of compliance will be issued for the site.

SECTION VIII - VIOLATIONS

Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$500.00. If the offender fails to remedy the violation and pay any civil penalty within ten (10) days after being cited for said violation (or within the time prescribed by a citation if it provides for a longer period of time than ten days), the civil penalty may be recovered in a civil action in the nature of a debt. Civil penalties begin to accrue from the date of the first notice of violation.

This Ordinance may also be enforced by any appropriate equitable action authorized by law, including injunctive relief, whether or not there is an adequate remedy at law.

- (a) Each day that any violation continues, regardless of the date of notice, shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- (b) In such an event, civil penalties begin to accrue from the date of the first notice of violation. For continuing violations, the initial citation and requirement that the civil penalty be paid within the time prescribed therein shall be the only notice required to be given; and shall be deemed to be an on-going citation and notice for continuing violations after the date of the citation.
- (c) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall not constitute a misdemeanor as provided in N.C. Gen. Stat. § 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

Alternatives for Enforcement. In addition to the provisions of this section, any provision of this Ordinance or other ordinance of the County may be enforced by any one or more of the remedies authorized by N.C. Gen. Stat. §153A-123, excluding misdemeanor charges as provided in N.C. Gen. Stat. § 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

SECTION IX - ENFORCEMENT

- A. The enforcement officer shall be the Duplin County Planner or designee. The enforcement officer shall review site plans for compliance with this ordinance and may also visit the facilities occasionally to determine ongoing compliance with the ordinance. The

enforcement officer shall notify the Operator in writing of any deficiencies and the necessary steps that must be taken to bring the facility into compliance. If the Operator fails to bring the facility into compliance with this Ordinance, the enforcement officer, after consultation with the County Manager, shall institute the necessary steps to enforce this ordinance in accordance with the provisions of subsection B of this Section.

- B. This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. It may be enforced by injunction and order of abatement. The County may apply for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct any unlawful condition upon or cease the unlawful use of property. The County may request an order of abatement as part of a judgment in the cause any may request the court to close, demolish or remove buildings or other structures or take any other action that is necessary to bring the solar energy facility into compliance with this Ordinance.

This Ordinance may be enforced by any one or more of the remedies authorized herein.

SECTION X - SEVERABILITY

If any section or part of this Ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this Ordinance are severable.

SECTION XI - EFFECTIVE DATE

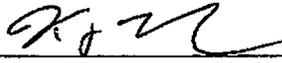
This Ordinance shall become effective upon adoption.

SECTION XII - GRANDFATHER CLAUSE

Any outstanding building permit for a solar farm in Duplin County valid at the time of adoption shall remain in force, and nothing in this Ordinance shall require a change of plans, construction, or designated use of any structure for which such permit has been issued.

Adopted this the 20th day of April, 2015

Duplin County Board of Commissioners

By: 
Kennedy Thompson, Chairman

Attest:


Mike Aldridge, Clerk to the Board