

ORDINANCE 18-18

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS MANATEE COUNTY, FLORIDA AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 2, DEFINITIONS TO PROVIDE DEFINITIONS FOR “ALTERNATIVE ENERGY GENERATION FACILITY”, “LOW-TEMPERATURE SOLAR THERMAL POWER”, “PHOTOVOLTAIC (PV) SOLAR POWER”, “SOLAR ARRAY” AND “SOLAR FIELDS” AND TO AMEND DEFINITIONS FOR “UTILITY USE” AND “UTILITY USE, HEAVY”; AMENDING CHAPTER 4, ZONING BY ADDING “ALTERNATIVE ENERGY GENERATION FACILITY” AS A USE IN SPECIFIED ZONING DISTRICTS IN SECTION 401.2, SCHEDULE OF USES TABLE 4-1 - USES IN AGRICULTURE AND RESIDENTIAL DISTRICTS, TABLE 4-2 - USES IN NON-RESIDENTIAL DISTRICTS, AND SECTION 402.5 SCHEDULE OF USES FOR PD DISTRICT TABLE 4-9 - , SCHEDULE OF USES FOR PLANNED DEVELOPMENT (PD) DISTRICTS; AMENDING CHAPTER 5 – PART IV - STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES, SECTION 531.54 – UTILITY USES TO PROVIDE STANDARDS FOR ALTERNATIVE ENERGY GENERATION FACILITY; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 4, 2015, the Board enacted Ordinance No. 15-17 amending and restating the Manatee County Land Development Code (the “Land Development Code”) which has been subsequently amended; and

WHEREAS, Section 163.3174(1), Florida Statutes, requires that the governing body of each local government in Florida shall designate and by ordinance establish a “local planning agency”; and

WHEREAS, the Manatee County Planning Commission has been duly designated in Section 301 of the Land Development Code as the Local Planning Agency of the County; and

WHEREAS, Section 163.3174(4)(c), Florida Statutes, provides that the Local Planning Agency shall review proposed land development regulations and make recommendations to the governing body as to consistency of the proposed land development regulations with the adopted Comprehensive Plan; and

WHEREAS, Section 301.1.D. of the Land Development Code authorizes the Planning Commission to hold public hearings and make recommendations as to proposed amendments to the text of the Land Development Code; and

WHEREAS, the Planning Commission, acting in its capacity as the County’s Local Planning Agency, has been presented with proposed LDCT Amendment 18-01/Ordinance 18-18, incorporated by referenced into this Ordinance; and

WHEREAS, the Planning Commission acted in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on June 14, 2018, in accordance with Section 341.2 of the Land Development Code and to receive public comment; and

WHEREAS, the Planning Commission, acting in its capacity as the Local Planning Agency, at the June 14, 2018 public hearing, found the privately-initiated LDC Text Amendment 18-01/Ordinance 18-18 to be consistent with the Manatee County Comprehensive Plan (“the Comprehensive Plan”) and recommended that the Board of County Commissioners adopt the LDC Text Amendment 18-01/Ordinance 18-18 into the Land Development Code of the County; and

WHEREAS, the Board held two (2) adoption public hearings on August 2, 2018 and August 23, 2018, to receive public comments and consider the recommendation of the Planning Commission as to the proposed LDC Text Amendment 18-01/Ordinance 18-18; and

WHEREAS, the Board has found and determined that the adoption of the proposed LDC Text Amendment 18-01/Ordinance No. 18-18 will foster and preserve the public health, safety and welfare and aid in the harmonious, orderly and progressive development of the County and thus will serve a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida;

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in the “Community Planning Act”, codified as Chapter 163, Part II, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board hereby finds and determines that:

- (a) The findings set forth in the recitals to this Ordinance are true and correct.
- (b) The Planning Commission, acting in its capacity as the Local Planning Agency for the County, held a public hearing on June 14, 2018, to consider LDC Text Amendment 18-01 and found the LDC Text Amendment to be consistent with the Comprehensive Plan, and recommended that the Board adopt the LDC Text Amendment into the Land Development Code of the County.

Section 3. Adoption of the Land Development Code Text Amendment. The Land Development Code Text Amendment attached to this Ordinance and incorporated herein as Exhibits A-1 through A-3 is hereby adopted as Amendments to the Land Development Code of the County. The Land Development Code Text Amendment shall consist of the following Chapters and Sections of the Land Development Code as set forth in the following three (3) Exhibits:

- (a) Chapter 2, DEFINITIONS (Exhibit A-1);
- (b) Chapter 4, ZONING (Exhibit A-2); and
- (c) Chapter 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES (Exhibit A-3).

Section 4. Codification. The publisher of the County’s Land Development Code, the Municipal Code Corporation, is directed to incorporate the Amendments in Section 3 of this Ordinance into the Manatee County Land Development Code.

Section 5. Applicability. The Amendments set forth in this Ordinance shall apply to all applications, decisions or controversies pending before the County upon the effective date hereof or filed or initiated thereafter.

Section 6. Severability. If any section, sentence, clause, or other provision of this Ordinance, or other provision of the Land Development Code Text Amendment contained within Application LDCT-18-01 shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance, or the LDC Text Amendment, as the case may be.

Section 7. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED with a quorum present and voting, this 23rd day of August 2018.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

BY: _____
Priscilla Trace, Chairman

**ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

BY: _____
Deputy Clerk

**EXHIBIT “A-1”
ORDINANCE 18-18**

Chapter 2 – DEFINITIONS

Section 200 – Definition to include the following “new” and “revised” definitions:

Alternative Energy Generation Facility shall mean a facility that utilized either Photovoltaic Solar Power to generate electricity. This facility may also have other equipment that is directly involved in the storage and transmission of electricity.

Low-Temperature Solar Thermal Power shall mean the technology that utilizes solar thermal collectors to absorb the heat from the sun’s rays and transfer it to a heat transfer fluid, such as air, water or antifreeze, which in turn transports it to the area to be heated.

Photovoltaic (PV) Solar Power shall mean the technology that uses photovoltaic cells to harness radiant energy from the sun and create electricity. These cells are often packaged into panels that can be mounted on a rack system, placed on rooftops, or incorporated into other building materials such as roofing materials, facades, and glass. Rack mounted PV systems typically consist of a large array of solar panels which are mounted to support structures which are physically secured in the ground.

Solar Array. (See Alternative Energy Generation Facility)

Solar Field. (See Alternative Energy Generation Facility)

Utility Use shall mean any of the following uses:

- A. Electric substations or distribution centers including transformer stations.
- B. Alternative Energy Generation Facility.
- ~~B-C.~~ Natural gas, oil or other petroleum product metering, regulating, compressor, control or distribution stations, and local office space incidental thereto and necessary for the operation of such station, but shall not include any storage facilities.
- ~~C.~~ Major sewage pumping facilities.
- D. Telecommunication facilities, including but not limited to exchanges, dial centers, or repeater stations. Telecommunication towers and antennas are not included in the definition of “Utility Use”.

~~E. Major potable water storage, control, or pumping facilities.~~

~~F.~~ E. Service or supply yards for any of the above uses, where such yards are less than one (1) acre in area.

~~F.~~ G. Wastewater Treatment Plants.

Utility Use, Heavy shall include: ~~but is not limited to,~~

A. Power generating facilities, including Low Temperature Thermal, operating at a threshold above that specified in Section 403.506, Florida Statutes, as may be amended.

B. Major electrical transmission corridors. ~~Multiple transmission line facilities.~~

C. Major sewage pumping facilities.

D. Major potable water storage, control, or pumping facilities.

E. Wastewater treatment plants.

F. Water treatment plants.

G. Major maintenance facilities.

H. Solid waste transfer stations.

EXHIBIT “A-2” ORDINANCE 18-18

Chapter 4 – ZONING

Table 4.1 – Uses in Agriculture and Residential Districts									
Land Use	See Sec.#	CON	A	A-1	RSF	RSMH	RDD	RMF	VIL
Utility Use	531.54	SP	AP	AP	AP	AP	AP	AP	AP
• <u>Alternative Energy Generation Facility</u>	<u>531.54</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Utility Use, Heavy</u>	<u>531.54</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

“X” = Not Permitted

“P” = Permitted (meeting LDC Section 531.54)

“AP” = Administrative Permit (meeting LDC Section 531.54)

“SP” = Special Permit (meeting LDC Section 531.54)

Table 4-2: Uses in Non-Residential Districts										
Land Use	See Sec.#	PR	NC	GC	HC	RVP	LM	HM	EX	MP-1
Utility Use	531.54	AP	AP	AP	AP	AP	AP	AP	AP	X
• <u>Alternative Energy Generation Facility</u>	<u>531.54</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Utility Use, Heavy</u>	<u>531.54</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

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Table 4-9: Schedule of Uses for PD Districts

Land Use	See Sec. #	PDR	PDO	PDC	PD RP	PDI	PD PI	PDW	PD MU	PD RV	PD MH	PD GC	PDA	PD EZ
Utility Use	531.54	SP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP/SP	AP	P
<ul style="list-style-type: none"> <u>Alternative Energy Generation Facility</u> 	<u>531.54</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>
<u>Utility Use, Heavy</u>	<u>531.54</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

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**EXHIBIT “A-3”
ORDINANCE 18-18**

Chapter 5 – Standards for Accessory and Specific Uses and Structures Part IV

Section 531 General

Section 531 Standards for Specific Uses

Section 531.54. Utility Uses.

- A. Location.** Utility uses shall only be allowed where necessary to render efficient service to an area. Wastewater treatment facilities are prohibited in the CON district.
- B. Heavy Utility Uses Require Rezone to MP-1.** ~~Utility uses which have adverse visual, health, safety, or welfare impacts on adjacent property or residents are defined as Heavy Utility Use within this Code. Including but not limited to permanent water and wastewater treatment/storage/disposal facilities; major maintenance facilities; solid waste transfer stations, and major electrical transmission corridors, Heavy Utility Uses are can only permitted be allowed within the P/SP(1) future land use category and require a PDPI zoning rezone to MP-1. The Department Director shall determine what constitutes a Heavy Utility Use requiring such procedures.~~
- C. Application Requirements.** ~~Applications for public utilities uses within private or public property shall be submitted to the Department Director for approval. Water and Wastewater Treatment facilities require Board of County Commissioners approval after holding a Public Meeting to review the proposed location.~~
- ~~1. Submittal Requirements. The application for utility use approval shall include the following:~~
- ~~a. A certified copy of the law, code, resolution or other official act adopted by Manatee County authorizing the establishment of the proposed use.~~
- ~~b. A statement by an official or officer of the utility company shall be submitted giving the exact reasons for selecting the particular site as the proposed location for the utility use.~~
- ~~c. A map shall be furnished showing the utility system, of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed use to the utility system.~~
- ~~2. Review Criteria. The application shall meet the following criteria.~~
- ~~a. If the proposed location of any public utilities use is in a Residential or Neighborhood Commercial district, the decision making body shall find that there~~

~~is no alternative site available for such use in a Commercial or Industrial district within five hundred (500) feet of the proposed location.~~

~~b. For the following utilities uses, the decision making body shall find that there is no alternative site available in a non-residential district within a distance of one (1) mile, unless there is a substantial showing that satisfactory service cannot be rendered from an available location in such Commercial or Industrial district; Electric Substations and Distribution Centers; and Service and Supply Yards.~~

- ~~3. *Exemptions.* Any public utilities or facilities specifically approved in accordance with the standards of this Section in connection with another application for development approval shall not be required to obtain a separate development approval.~~

D.C. Standards for All Utility Uses.

1. Utilities and facilities, other than buildings, shall not be required to comply with the dimensional development standards of the zoning district, as specified in Chapter 4.
2. No land or building in any district other than “HM” (Heavy Manufacturing), “LM” (Light Manufacturing), “HC” (Heavy Commercial), or “A” (General Agricultural) shall be used for the outside storage of materials or equipment, or for the repair or servicing of vehicles or equipment, or for the parking of vehicles except those needed by employees connected with the operation of the immediate facility. However, utility service and supply yards not exceeding one (1) acre may be allowed in other districts upon showing of a demonstrated need.
3. In all zoning districts except the LM, HM, HC, and A districts, all equipment, machinery and facilities not located within an enclosed building shall be adequately screened in accordance with the requirements of Section 701, Landscaping.
4. *Exemptions.* Any public or private utilities or facilities specifically approved in accordance with the standards of this Section in connection with another application for development approval shall not be required to obtain a separate development approval.
- 4.5. See Section 531.53 for specific standards applicable to Solid Waste Management Facilities.

D. Rack-Mounted Alternative Energy Generation Facility

1. *Location.* Facilities shall be located in agricultural, industrial, and/or Planned Development zoning districts pursuant to Chapter 4. However, such facilities shall not be located within the Historical and Archaeological Overlay District, the

Historic Vista Protection Overlay District, or the Coastal High Hazard Overlay District as defined in this Code.

Facilities may be enclosed with a security fence with a minimum height of six feet to discourage unauthorized entry. The fence location and maximum height shall comply with the requirements of this Code. Clearly visible warning signs shall be placed on the fence and/or site perimeter, if applicable.

3. Existing vegetation shall be preserved to the maximum extent possible. Where unique natural features provide vegetative screening, which meets or exceeds the standards required in this Section, the Department Director may approve an alternative landscape and screening plan.
4. *Height.* Installed solar panels shall have a maximum height of 15-feet as measured when the panels are tilted to the design degree that creates the greatest overall height. All other structures shall conform with the principal or accessory structure height requirements of this Code.
5. For purposes of calculating the open space requirements, the area of the solar panels and transmission lines shall be considered open space if the ground beneath the panel remains pervious.
6. Alternative Energy Generation Facilities are exempt from the Special Approval provisions of the Manatee County Comprehensive Plan and this Code.
7. For purposes of this use, the term “adjacent” shall not include a use or zoning that is located on the opposite side of an arterial or collector roadway.

E. Standards for Rack-Mounted Alternative Energy Generation Facility in the Agricultural Zoning District (A):

1. *Setbacks.* From any property line, adjacent to residentially used or zoned property, a minimum setback of fifty (50) feet is required.
From any property line adjacent to non-residential uses or zoning, the minimum setbacks for the “A” zoning district as shown in Table 4-4 shall apply.
These setbacks shall apply to all solar panels and other above-ground structures excluding transmission line poles.
2. *Roadway Buffer.* If adjacent to a public right-of-way, the minimum buffer width shall be 10-feet and the plantings shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.
3. *Screening.* For screening purposes, this use is classified as “Community Service Uses” (refer to Table 7-4 Buffer Screening Matrix; Width of Buffer Required [In Feet]). If adjacent to residentially used or zoned parcels, screening

shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.

F. Standards for Rack-Mounted Alternative Energy Generation Facility in Industrial (LM or HM) or Planned Development Zoning Districts (PDPI, PDI, PDEZ)

1. *Setbacks.* The solar panels shall meet the minimum setbacks established in Table 4-4 for the applicable zoning district. For Planned Development District zoning, the setbacks established in the Zoning Ordinance shall apply.

These setbacks shall apply to all solar panels and other above-ground structures excluding transmission line poles.

2. *Roadway Buffer.* If adjacent to a public right-of-way, the minimum buffer width shall be 10-feet and the plantings shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.

3. *Screening.* For screening purposes, this use is “Community Service Use” (refer to Table 7-4: Buffer Screening Matrix; Width of Buffer Required [In Feet]). The screening plants shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.