

ORDINANCE NO. 269

AN ORDINANCE OF UPSON COUNTY, GEORGIA, TO AMEND THE ZONING ORDINANCE OF UPSON COUNTY TO PERMIT GROUND MOUNTED SOLAR ENERGY SYSTEMS IN THE A-R, O-1, C-2, P-M, M-1 and M-2 ZONING DISTRICTS; ESTABLISHING PURPOSE AND INTENT; PROVIDING DEFINITIONS; ESTABLISHING PERMITTING AND SUBMITTAL REQUIREMENTS; ESTABLISHING GENERAL REQUIREMENTS FOR GROUND MOUNTED SYSTEMS, INCLUDING SETBACKS, FENCING, GROUND COVER, LIGHTING, SOLAR EASEMENTS AND DECOMMISSIONING; PROVIDING FOR REPEAL/CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, OCGA §36-1-20, empowers County governments to protect and preserve the public health, safety and welfare, through the adoption of ordinances, and

WHEREAS, pursuant to The Zoning Procedures Law, OCGA §36-66-1, the Upson County Board of Commissioners adopted the Upson County Zoning Ordinance, through Ordinance No. 79, February 15, 1995; and

WHEREAS, Section 1-4 of the Code of Upson County (CUC) and Section 410 of the Upson County Zoning Ordinance (UCZO) list the procedures by which the Zoning Ordinance may be amended; and

WHEREAS, two solar energy systems have previously been permitted in unincorporated Upson County on Rocky Creek Road and Racetrack Road, with little policy guidance; and

WHEREAS, the Upson County Board of Commissioners desires to establish minimum standards for the siting, construction, installation and decommissioning of any new solar energy systems in unincorporated Upson County; and

WHEREAS, all public notice and procedural requirements have been met by the Upson County Planning Commission and Board of Commissioners; and

WHEREAS, the Upson County Board of Commissioners has determined that the proposed solar energy system standards meet the required review standards and serve to enhance the public health, safety, morality or general welfare of Upson County, Georgia, therefore:

BE IT ORDAINED by the Board of Commissioners of Upson County, Georgia, as follows:

SECTION ONE

That Appendix A of the Code of Upson County, Georgia, is hereby amended to read as follows:

ARTICLE 5. A-R AGRICULTURAL-RESIDENTIAL**Section 504. Permitted Uses**

B. The following principle uses are permitted as special exceptions in A-R districts:

19. Small, Intermediate and Large Ground Mounted Solar Energy System

D. The following accessory uses are permitted as special exceptions in A-R districts:

1. ~~(Reserved)~~ Small, Intermediate and Large Scale Ground Mounted Solar Energy System

ARTICLE 14. O-1 OFFICE RESIDENTIAL**Section 1404. Permitted uses.**

D. The following accessory uses are permitted as special exceptions in the O-1 districts:

2. Intermediate and Large Scale Ground Mounted SESs

ARTICLE 15. C-2 COMMERCIAL-GENERAL/HIGHWAY*

Section 1604. Permitted uses.

D. The following accessory uses are permitted as special exceptions in C-2 districts:

1. ~~None.~~ Intermediate and Large Scale Ground Mounted SESs

ARTICLE 18. M-1 MANUFACTURING-LIGHT*

Section 1804. Permitted uses.

B. The following principal uses are permitted as special exceptions in M-1 districts:

5. Small, Intermediate and Large Scale Ground Mounted SESs

D. The following accessory uses are permitted as special exceptions in M-1 districts.

2. Small, Intermediate and Large Scale Ground Mounted SESs

ARTICLE 19. M-2 MANUFACTURING-GENERAL*

Section 1904. Permitted uses.

B. The following principal uses are permitted as special exceptions in M-2 districts:

8. Small, Intermediate and Large Scale Ground Mounted SESs

D. The following accessory uses are permitted as special exceptions in M-2 districts.

2. Small, Intermediate and Large Scale Ground Mounted SESs

1) ARTICLE XX. – SOLAR ENERGY SYSTEMS

Section XX01. - Purpose and intent.

It is the intent of this article to establish general regulations facilitating the siting, construction, installation and decommissioning of solar energy systems (SESs) in Upson County, in a manner that encourages local economic development and protects the health, safety and welfare of the citizens of Upson County. At the same time the County seeks to mitigate any adverse impacts to wildlife, agricultural lands, forest and other natural landscapes and, when possible, enhance the natural environment.

The footprint of a Ground Mounted SES shall be calculated by drawing a perimeter around the outermost SES panels and any equipment necessary for the functioning of the SES, such as transformers and inverters. The SES footprint does not include any visual buffer or perimeter fencing. Transmission lines (or portions thereof) required to connect the SES to a utility or consumer outside the SES perimeter shall not be included in calculating the footprint. Lots with two or more SES separated from one another shall have the SES added together for purposes of determining a cumulative, total size of the SES on an individual lot.

2) Section XX02. Solar Energy-Related Definitions.

- A. Ground Mounted Solar Energy System: An SES that is structurally mounted to the ground and does not qualify as an Integrated SES. For purposes of the Upson County Zoning

Ordinance, any solar canopy that does not qualify as an Integrated SES shall be considered a Ground Mounted SES, regardless of where it is mounted.

- B. *Integrated Solar Energy System*: An SES where solar materials are incorporated into building materials, such that the two are reasonably indistinguishable, or where solar materials are used in place of traditional building components, such that the SES is structurally an integral part of a house, building or other structure. An Integrated SES may be incorporated into, among other things, a building façade, skylight, shingles, canopy, light or parking meter.
- C. *Intermediate Scale GM SES*: A Ground Mounted SES with a cumulative, total footprint between 5-20 acres.
- D. *Large Scale GM SES*: A Ground Mounted SES with a cumulative, total footprint over 20 acres.
- E. *Roof or Building Mounted SES*: Solar energy system (panels) that are mounted to the roof or building using brackets, stands or other apparatus.
- F. *Solar Access*. The ability to receive direct sunlight, onto any surface point on a solar panel, unobscured by any vegetation, building or object located on the parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard Time on any day of the year.
- G. *Solar Energy System*: A device or structural design feature that provides for the collection of solar energy for electricity generation, consumption, or transmission, or for thermal applications.

For purposes of the Upson County Zoning Ordinance, SES refers only to (1) photovoltaic SESs that convert solar energy directly into electricity through a semiconductor device or (2) solar thermal systems that use collectors to convert the sun's rays into useful forms of energy for water heating, space heating or space cooling.

SES as used in the Upson County Zoning Ordinance excludes concentrated solar power, which uses mirrors to focus the energy from the sun to produce electricity.

- H. *Small Scale GM SES*: A Ground Mounted SES with a cumulative, total footprint less than 5 acres

3) Section XX03. SES Permitting and Submittal Requirements

- A. Construction of all Solar Energy Systems must be permitted through Upson County's regular building permit system. Ground Mounted SESs requiring a Special Exception shall first complete the Special Exception process and be approved, prior to submittal of a complete building permit application. All roof-mounted SES are permitted in all zoning districts, subject to the County's building permit process, as accessory structures to the permitted principal use and other permitted accessory uses that have roofs which can support such SES. Roof-mounted SES may not extend above the highest pitched-roof peak of the structure and may not extend beyond any portion of the roof edge.
- B. In addition to completing the regular building permit application, the following information shall also be supplied, as a minimum, at the time of building permit application submittal unless the following information was submitted and approved with any required Special Exception application submittal.
 - 1. a site plan of the property that depicts the locations of all existing and proposed structures (including solar arrays, inverters, transformers, electrical substations, total, cumulative footprint acreage and total parcel acreage, fencing and buildings),

- property lines, rights-of-way, roads, access roads, access points, required setbacks and visual buffers;
2. a landscape plan that shows what the groundcover will be onsite, which must include at least fifty percent (50%) of the site being planted with officially-recognized Georgia-native, pollinator-friendly plants;
 3. a topographic map that depicts vegetative cover, watersheds, or wetlands on the property;
 4. a visual buffer plan that demonstrates that any visual buffer (a) minimizes impacts of the SES on adjacent residential dwelling units, as required by this Ordinance, (b) preserves the natural tree growth and natural land forms along the SES perimeter, as required by this Ordinance and (c) adheres to any visual buffer requirements of Upson County that may further minimize impacts of the SES on the community character;
 5. a list that identifies (a) federal or state endangered, threatened, or candidate species that may be present on the property or within 100 feet of the property, and (b) critical habitat on the property or within 1,000 feet of the property; and
 6. a statement documenting how emergency services' access has been coordinated and planned for and what that plan is;
 7. a decommissioning plan, which, when approved by the Upson County Board of Commissioners, shall be recorded with the Clerk of the Upson County Superior Court. As a minimum, the decommissioning plan shall contain the following:
 - a. the name, address, telephone number and email address of the person(s) or entity (ies) responsible for implementing the decommissioning plan, which shall minimally include the land owner;
 - b. the name, address, telephone number and email address of the person(s) or entity (ies) responsible for implementing the decommissioning plan;
 - c. a statement of conditions that require the decommissioning plan to be implemented;
 - d. as part of the decommissioning, a removal plan that identifies all structures, components and non-utility owned equipment that shall be removed;
 - e. as part of the decommissioning, a plan for recycling or otherwise reusing all materials to the extent reasonably practicable;
 - f. as part of the decommissioning, a restoration plan to return the property to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use after the SES is removed; and
 - g. a timeline to complete the decommissioning.
 - h. a copy of the property lease agreement which must include a copy of the Upson County-approved decommissioning plan or a notarized statement that the County-approved decommissioning plan is included as part of the lease.
 - i. Certifications.

The applicant shall submit an affidavit that provides, to the best of the applicant's knowledge:

 - a. that construction and operation of the SES will comply with all applicable federal and state laws;

- b. that construction and operation of the SES will comply with all local laws, including the requirements of the Upson County Zoning Ordinance, unless waived by the appropriate authority; and
- c. that commercial general liability insurance will be maintained throughout the siting, construction, installation, operation and decommissioning of the SES.

10) Section XX04. - Permitted locations and requirements.

A. Solar Energy Systems are permitted or prohibited as indicated in each zoning district of the Upson County Zoning Ordinance and this Article.

B. Ground Mounted Systems are prohibited in the R-1, R-2, R-4, R-5, P-R, C-1 and C-3 zoning districts. Roof mounted systems in these districts may not extend above the highest peak of the roof of the principal or accessory building upon which the system is mounted.

C. Intermediate and Large Scale Ground Mounted SESs are permitted in the P-M zoning district as accessory uses by Special Exception.

D. Commercial and industrial roof systems shall be placed on the roof so as to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the SES owner to reasonably capture solar energy.

11) Section XX05. – General Requirements for All Ground Mounted Solar Energy Systems

The following requirements apply to all Ground Mounted SESs, in addition to the specific requirements in the Zoning Ordinance that apply to Intermediate and Large Scale SESs respectively.

A. Setbacks

All Intermediate and Large Scale Ground Mounted SES shall meet the following setbacks:

1. Panels – 100 ft from the property line
2. Inverters – 200 ft from the property line
3. All other accessory components, buildings, etc. - 50 ft from the property line

B. Fencing

Perimeter chain linked fencing having a minimum height of six (6) feet shall be installed, maintained and secured around the boundary of the SES. The fence shall hold the required signage.

C. Ground Cover

At least fifty percent (50%) of Ground Mounted SES areas shall be planted and maintained with professionally-recognized, Georgia-native pollinator-friendly plants. Owners are encouraged to plant the remainder of the Ground Mounted SES property with native grasses and plants.

D. Outdoor Storage

Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the SES is permitted, except for outdoor storage otherwise expressly permitted for commercial uses in the zoning district.

E. Lighting

All Large Scale, Ground Mounted SES shall have security lighting at each entrance gate. Where lighting is installed, it shall be shielded and downcast so that the light does not spill onto adjacent properties.

F. Tree Removal

The removal of trees or natural vegetation for a Ground Mounted SES shall be avoided to the extent reasonable practicable. Site plans submitted with building permits shall illustrate all tree and natural vegetation removal and landscape plantings.

G. Solar Access Easements

Consistent with OCGA §44-9-20 et seq., a property owner may obtain a solar easement from another property owner for the purpose of ensuring rooftop SES and ground Mounted SES, adequate exposure to sunlight/solar access.

H. Decommissioning and Abandonment

Unless otherwise approved by the Upson County Board of Commissioners, decommissioning shall begin no later than 12 months after a Ground Mounted SES has ceased to generate electricity or thermal energy:

1. For a Ground Mounted SES permitted without a Decommissioning Plan, within 6 months of the beginning of decommissioning, the SES and all structures associated with it shall be removed, all materials shall be recycled or otherwise reused to the extent reasonably practicable, and the property shall be returned to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use, and
2. For a Ground Mounted SES allowed with a permit and decommissioning plan, the SES shall be decommissioned in accordance with the most recent decommissioning plan approved with the building permit and/or Special Exception.

I. Signage

All Ground Mounted SES:

1. Shall display, at every entrance and every 150 ft, minimum, along the fence line, signs (a) stating the risks that may result from contact with a Ground Mounted SES, (b) stating the SES address, in the format of "The address of this facility is (street number and street name) c) identifying the owner or operator of the Ground Mounted SES, and (c) providing a 24-hour emergency contact phone number.
2. Shall display at every entrance an up-to-date sign indicting the names of the individual(s) and/or company(ies) responsible for maintenance of the facilities, their phone number(s) and mailing address(es).
3. Shall comply with the requirements of the applicable zoning district for signage; and
4. May have signs that contain educational information about the Ground Mounted SES.

J. Maintenance

All SES must be maintained in their appearance and in good working order. The ground cover, fencing, signage and equipment of all Grounded Mounted SES shall be maintained in function and appearance. Damaged and broken equipment shall be replaced and removed from the site in a timely manner. Vegetative cover shall be maintained at the appropriate height, no taller than what will minimally allow for the functioning of the solar panels. Vegetative debris such as tree trimmings, limbs, pulled stumps, brush, leaves, and the like, shall be removed from site and disposed of appropriately

through burning or at an approved landfill site. Soil erosion will be prevented and repaired where it has occurred.

K. Inspections

The Building Official or his his/her representative shall have the right at any reasonable time, to enter, in the company of the owner, operator or his agent, the premises on which the SES has been constructed to inspect all parts of the SES installation and require that repairs or alterations be made within thirty (30) days, if, in his/her judgement, there exists a deficiency in the structural stability of the SES.

SECTION TWO

The Official Zoning Ordinance of Upson County, Georgia is hereby amended by amending certain sections, and shall be accessible to the public.

SECTION THREE

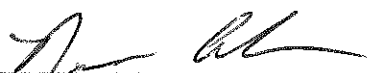
All ordinances or parts thereof in conflict with the terms and provisions of this Ordinance are, and the same hereby, are repealed.

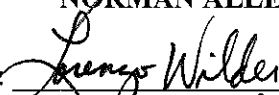
SECTION FOUR

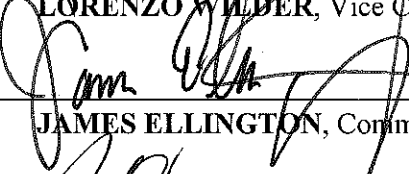
Should any sentence, paragraph or section of this Ordinance be declared to be invalid, for any reason, such declaration shall not affect the validity of any other sentence, paragraph or section of this Ordinance and all such remaining sentences, paragraphs and sections hereof shall remain valid and of full force and effect, and the Board of Commissioners of Upson County, Georgia, hereby declares that such continuing validity of the remaining portions hereof is its intent as of the date of the enactment hereof.


The foregoing ordinance this day adopted by the Board of Commissioners of Upson County, Georgia, and effective, this 26th day of November, 2019.

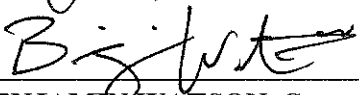
**BOARD OF COMMISSIONERS
OF UPSON COUNTY**

BY: 
NORMAN ALLEN, Chairman

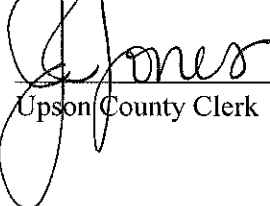
BY: 
LORENZO WILDER, Vice Chairman

BY: 
JAMES ELLINGTON, Commissioner

BY: 
PAUL JONES, Commissioner

BY: 
BENJAMIN WATSON, Commissioner

ATTEST:


Upson County Clerk