

**TOWN OF HICKORY CREEK, TEXAS
ORDINANCE NO. 2021-08-881**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN OF HICKORY CREEK, TEXAS, CHAPTER 3: BUILDING REGULATIONS, BY AMENDING ARTICLE 3.11: SOLAR PANEL STANDARDS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS; PROVIDING A PUBLICATION CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Hickory Creek, Texas, is a Type A General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town of Hickory Creek, Texas is a general law municipality empowered under the Texas Local Government Code, Section 51.012, to adopt an ordinance necessary for the government, interest, welfare, or good order of the Town; and

WHEREAS, the Town Council does hereby find and determine that the adoption of this Ordinance is in the best interest of the Town and is necessary for the government, interest, welfare, and good order of the Town as well as the public health, safety, morals and general welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS:

**SECTION 1
INCORPORATION CLAUSE**

That all of the above premises are true and correct and are hereby incorporated in the body of this Ordinance as if fully set forth herein.

**SECTION 2
FINDINGS**

After due deliberations the Town Council has concluded that the adoption of this Ordinance is in the best interest of the Town of Hickory Creek, Texas, and of the public health, safety and welfare.

**SECTION 3
AMENDMENTS**

3.01 That the Code of Ordinances, Town of Hickory Creek, Texas, Chapter 3: Building Regulations, Article 3.11: Solar Panel Standards is hereby amended to read as follows:

"Section 3.11. – Solar Panel Standards

Sec. 3.11.001. – Violations

Any person violating any of the provisions of this article shall be subject to a fine, as provided for in the general penalty in section 1.01.009 of this code, upon conviction in the municipal court, and each and every day that the premises shall remain in a condition in violation of the terms of this article shall constitute a separate offense. This section shall be in addition to and cumulative of the provisions for the abatement of the said nuisance and charging the cost of same against the owner of the premises by the town.

Sec 3.11.002. – Compliance Required

It shall be unlawful to maintain, alter, or install any solar panel system or a component thereof in town without having fully complied with the provisions of this article.

Sec. 3.11.003. – Permit for Installation, Alteration, or Maintenance

No alteration, installation, or maintenance of a solar panel system or component thereof may occur within the town unless the town has issued a permit for the same. To obtain the permit required by this section, an applicant must pay the fee described in the town's master fee schedule. An applicant's submittal for a building permit, and electrical permit, for locating a solar panel within the city must demonstrate compliance with the following standards.

(1) Definitions

- a. *Solar Panel System*: means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

(2) Location and design requirements.

- (A) Solar panel systems shall be allowed as an accessory use in all zoning districts.
- (B) Solar panel systems are prohibited where the installation threatens the public health or safety or violates the law, as determined by a court.
- (C) Solar panel systems may only be installed (1) on a roof of a building, (2) within a fenced yard, or (3) a patio, each of which must be owned and maintained by the property owner.
- (D) Solar panel systems may not be installed upon a roof, where the Solar Panel System:
 - (1) extends higher than or beyond the roofline;
 - (2) is located in an area other than an area designated by the Town of Hickory Creek, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the Town;
 - (3) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or

- (4) has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;
- (E) The Town designates the following areas permitted for Solar Panel System installation:
 - (1) Roof mounted solar panel systems shall not extend past the roofline and shall be parallel to the roofline.
 - (2) Solar panel systems shall be located no closer than two feet from the edge of any roofline, ridge or valley, and shall cover no more than 80 percent of the roof surface area.
- (3) Nuisance abatement, maintenance and decommissioning.
 - (A) Glare. A solar panel shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
 - (B) Enforcement. A solar panel system, or any component thereof, that creates glare or reflection onto adjacent properties or roadways is determined to constitute a nuisance. If a solar panel system or any component thereof is deemed to constitute a nuisance or a safety hazard, the Town Administrator has the authority to require the owner to remove, redesign or screening of the solar panels to the extent necessary to eliminate the glare onto adjacent property or roadway.
 - (C) Maintenance. The owner of the property with a solar panel system shall maintain the system so that it does not create a safety issue for surrounding property owners.
 - (D) Removal with disuse. Any solar panel system that has been inactive for a continuous 12-month period shall be removed.
- (4) Application requirements. An application for a building permit for installation of solar panel systems must include all information requested on the application including, but limited to:
 - (A) Scaled elevation drawings showing the location and height of the solar panel system.
 - (B) If the solar panel system is to be interconnected with the distribution system of the electric utility provider, written authorization that the public utility company has been informed of the owner's intent to install a customer-owned solar panel and that such connection has been approved.
 - (C) A letter from a structural engineer or its equivalent, stating the roof will support the structural load of the system.
- (5) Additional installation requirements.
 - (A) The solar photovoltaic (PV) system shall comply with the city's adopted National Electrical Code (NEC) with an electrical diagram submitted for review to meet code compliance.
 - (B) The solar panel system shall be installed by qualified or certified installers.
 - (C) A licensed electrician shall install the solar panel electrical system.
 - (D) PV systems shall comply with NEC regulations regarding installation and use. Listed and labeled equipment shall be installed and used in accordance with any instructions included in the listing and labeling.

(E) All PV systems shall comply with UL Standards."

3.02 All other articles, chapters, sections, subsections, paragraphs, sentences, phrases and words, are not amended but are hereby ratified and affirmed.

SECTION 4

CUMULATIVE REPEALER CLAUSE

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5

SEVERABILITY CLAUSE

If any section, article, paragraph, sentence, clause, phrase or work in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the Town Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

SAVINGS CLAUSE

All rights and remedies of the Town of Hickory Creek, Texas, are expressly saved as to any and all violations of the provisions of any other Ordinances of the Town affecting building, mechanical, plumbing, electrical and housing codes, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7

PUBLICATION CLAUSE

The Town Secretary of the Town of Hickory Creek is hereby directed to publish, the Caption, Penalty Clause and Effective Date of this Ordinance as required by Section 52.011 of the Texas Local Government Code.

SECTION 8

ENGROSSMENT AND ENROLLMENT CLAUSE

The Town Secretary of the Town of Hickory Creek is hereby directed to engross and enroll this Ordinance by copying the exact Caption, Penalty and Effective Date in the minutes of the Town Council and by filing this Ordinance in the ordinance records of the Town.

SECTION 9
EFFECTIVE DATE CLAUSE

That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from the date of passage and publication in the official newspaper.

IT IS SO ORDAINED.

PASSED AND APPROVED by the Town Council of the Town of Hickory Creek, Texas, this the 23rd day of August, 2021.

Lynn C. Clark, Mayor
Town of Hickory Creek, Texas

ATTEST:

Kristi Rogers, Town Secretary
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

Dorwin L. Sargent, III, Town Attorney
Town of Hickory Creek, Texas