

WARREN COUNTY NORTH CAROLINA

SOLAR FARM ORDINANCE (SOLAR ENERGY SYSTEMS)



ORDINANCE - EFFECTIVE/CURRENT MAY 2, 2016

This Ordinance (as adopted in its entirety) is approved by the Warren County Board of Commissioners and effective as of May 2, 2016 and been recorded after following proper form and procedure in the minutes of the regular Board of Commissioners meeting for May 2, 2016.

Prepared For: Warren County Board of Commissioners

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Jennifer Jordan, Commissioner
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Victor Hunt, Commissioner
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Angelena Kearney-Dunlap, Clerk to the Board
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Prepared By: Warren County Planning Board

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Prepared By: Warren County Planning/Zoning and Code Enforcement

Ken Krulik, AICP CZO - Planning and Zoning Administrator

SUMMARY

In recent years prior to the development of this ordinance, North Carolina has rapidly becoming a leader in solar energy development not only in the southeast, but also in the US. Both municipal and county units of government have worked on developing means to manage and facilitate the permitting process for solar energy systems. With the influx of "solar farms" in Warren County since 2011/2012, both in the County as well as in municipal limits and extraterritorial jurisdictions of Warrenton and Norlina, this ordinance provides a method for Warren County to manage solar development to the benefit of the County as well as to the developers of these sites.

This ordinance is applicable only to those areas of Warren County that are currently un-zoned (not inclusive of those zoned areas at Kerr Lake and Lake Gaston) and does not apply to the jurisdictions (municipal and extraterritorial) of the Towns of Warrenton and Norlina. The zoned areas of the County at Kerr Lake and Lake Gaston are managed for land use through the current Warren County Zoning Ordinance.

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GENERAL PROVISIONS

Section 101 TITLE: This document shall be known as the Warren County Solar Farm Ordinance and may also be referred to as Solar Energy Systems Regulations for the Unincorporated Areas of Warren County, not inclusive of the zoned areas of Lake Gaston, Kerr Lake and the municipalities of Warrenton and Norlina and their respective Extraterritorial Jurisdictions (ETJ).

Section 102 PURPOSE: The purpose of this ordinance is to facilitate the construction, installation, and operation of solar farms (Solar Energy Systems – SES) in Warren County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This ordinance is not intended to replace safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

Section 103 AUTHORITY & GRANT OF POWER: This ordinance is adopted under the authority and provisions of the General Statutes (GS) of North Carolina, Chapter 153A, Article 18, Part 2., in accordance with G S 153A-340, Section 5(g) Grant of Power - A member of the Planning Board shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Section 104 JURISDICTION: The regulations contained herein shall govern development of land within Warren County, North Carolina as provided in General Statute 153A, Article 18, except those lands lying within the jurisdiction of any municipality, unless such municipality shall have by resolution requesting the County to enforce these regulations within the municipality's area of jurisdiction.

Section 105 DEFINITIONS: For the purpose of this ordinance, the following defines a **Solar Farm (also known as a Solar Energy System - SES)** - the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

- A. **Solar Photovoltaic (PV) Systems:** an electrical system or device that converts the energy of light directly into electricity by the photovoltaic effect through the use of photoelectric cells (also known as solar panels).
- B. **Solar Thermal Systems:** large scale commercial-industrial energy system and related equipment for harnessing solar energy to generate thermal energy or electrical energy for use in connection with commercial and industrial operations.
- C. **Solar Hot Water Systems:** small scale, roof-top energy systems in which the sun's heat is gathered by a solar collector and used to increase the temperature of a heat-transfer fluid (such as water or a nonfreezing liquid) which flows through the pipes in the collector; the heat contained in this fluid then is conveyed and transferred to the water to be heated (this type of system is often used on homes, recreational centers and schools, hospitals and office buildings).

ARTICLE II

SITE DEVELOPMENT REQUIREMENTS

Section 201 SETBACKS: A minimum of a fifty feet (50') from all property lines (inclusive of equipment and fencing).

Section 202 SECURITY: Fencing shall be a minimum of six feet (6' in height) and secured to reduce/eliminate trespassing.

Section 203 HEIGHT: A maximum height (not including power lines) for the solar panel arrays shall be no more than fifteen five feet (15').

Section 204 BUFFERS AND LANDSCAPING: The minimum requirements of this ordinance shall be applied with vegetative buffers having a minimum of three feet (3') in height at the time of project construction and reaching a minimum of eight feet (8') in height within five (5) years.

- A. Landscaping including vegetative buffers, security fences and gates shall be maintained for the duration of the solar farm operation, up to and including decommissioning (dismantled/removed).
- B. Solar panels/arrays shall be constructed so as to minimize glare or reflection onto adjacent properties and roadways.

Section 205 DECOMMISSIONING: The Planning and Zoning Administrator, or his/her designee shall be advised in writing within thirty (30) days by the solar farm operator or property owners (whichever entity/party holds the development and building permits) in the event the project is sold or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.

- A. At the time of applying for permits the applicant (solar farm developer or property owner) shall include a decommissioning plan with the anticipated life expectancy of the solar farm and the anticipated cost in current dollars, as well as the method (s) of insuring that funds will be available for decommissioning and restoration of the project site to its original, natural condition prior to the solar farm development.
- B. If the site is damaged, the solar farm operator shall have twelve (12) months to bring the project back to its operational capacity. If for any reason the solar farm is not generating electricity after six (6) months, the operator shall have six (6) months to complete decommissioning of the solar farm in compliance with Section 205 paragraph (A) above.
- C. In the event of bankruptcy or similar financial default of the solar farm, the property owner of the project site shall bear the decommissioning costs.

Section 206 APPLICABLE CODES AND INSPECTIONS: All solar farms shall be in compliance with the requirements of the most current State Building and Electrical Codes, the State of North Carolina and Warren County.

- A. A solar farm development in the un-zoned areas of Warren County shall be required to obtain and provides fees as applicable for the following (per the Warren County Fee Schedule):
- 1) Warren County E-911 Address for the site if one is not currently assigned.
 - 2) Warren County Development Permit
 - 3) Warren County Building Permit (non-residential electrical)
 - 4) North Carolina Department of Transportation (NC-DOT) Driveway Permit.
 - 5) If land disturbance exceeds more than one (1) acre per the North Carolina Department of Environment and Natural Resources:
 - a. Erosion and Sedimentation Control Plan/Permit with appropriate Best Management Practices (BMP's) for stormwater runoff management and water quality protection.
 - b. Stream Restoration Plan.
 - c. 401 Water Quality Permit.
 - 6) Required Riparian Buffers applicable for either the Tar –Pamlico and/or Roanoke River Basins (dependent on project location).
 - 7) VEPCO-appropriate shoreline management plans/permits [if the project is located on Lake Gaston and for Kerr Lake the U.S. Army Corps Engineers shoreline management program].
 - 8) Compliance with the Warren County Floodplain ordinance, if applicable.
 - 9) Appropriate public utilities as necessary (public water/sewer) or for private well/septic (on-site wastewater treatment facility) the Warren County Department of Environmental Health.
- B. All active solar farms shall be inspected by a Warren County Code Enforcement Officer (Building Inspector) on an annual basis to insure compliance with applicable State Building and Electrical Codes.
- C. Each solar farm shall be required to have the facility inspected annually for three (3) years by the Planning and Zoning Administrator or his/her designee following the issuance of the zoning permit or development permit (applicable in the un-zoned areas of Warren County) to verify continued compliance with the Zoning Ordinance or Solar Farm Ordinance as applicable.
- D. Additional inspections shall be conducted as necessary in the event of complaints and shall not replace the noted inspections outlined in this section.

ARTICLE III

LEGAL PROVISIONS

Section 301 PROCEDURE FOR SOLAR FARM DEVELOPMENT APPROVAL: After the effective date of this ordinance, no proposed solar farm as defined in this ordinance and within Warren County's jurisdiction shall proceed with construction until it has been submitted to and approved by the Planning and Zoning Administrator or his/her designee and as evidenced by an approved Warren County Development Permit in accordance with the provisions of this Ordinance.

Section 302 PENALTIES FOR VIOLATIONS: After the effective date of this ordinance, any persons who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter proceeds with development of solar farm prior to being approved under the terms of this ordinance shall be guilty of a misdemeanor. Further, violators of this ordinance shall be subject upon conviction, to fine and/or imprisonment as provided by General Statutes 14.4.

Section 303 SEPARABILITY: Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 304 VARIANCE: The Warren County Planning Board may authorize a variance from these regulations for solar farm development when, in its opinion, undue hardship may result from strict compliance. Application forms may be obtained from the Warren County Planning Department. In granting any variance, the Warren County Planning Board shall make the findings required below, taking into account the nature of the proposed development, existing use of land in the vicinity and the probable effect of the proposed development upon the community in the vicinity. The applicant can appeal the decision of the Planning Board to the Board of Commissioners in an un-zoned area. No variance shall be granted unless the Warren County Planning Board finds all the following:

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land,
- B. That the variance is necessary for the property owner to assume reasonable use of the land.
- C. That the circumstances giving the rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance;
- D. Special consideration may be granted by the Planning Board in situations involving a voluntary or court ordered partition of land made for the purpose of dividing the estate of a decedent among his heirs, whether the decedent died testate or intestate.

Section 305 AMENDMENTS: The Board of Commissioners may periodically amend the terms of this ordinance, but no amendment shall become effective unless it has been proposed by or has been submitted to the Planning Board for review and recommendation. The Planning Board shall have forty-five (45) days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, the amendment shall be deemed approved. The governing body shall adopt no amendment until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Warren County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

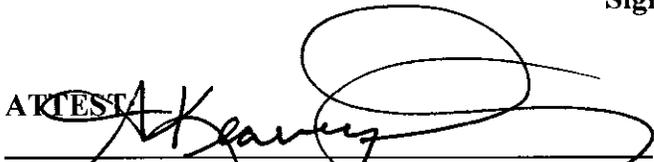
Section 306 ABROGATION: This section does not apply to any current municipal zoning requirements. It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 307 EFFECTIVE DATE: This ordinance adopted by the County Commissioners of Warren County, North Carolina, on May 2, 2016 shall take effect and be in force from and after May 2, 2016.

Signed: _____

Barry Richardson, Chairman
Warren County Board of Commissioners

ATTEST



Angelena Kearney-Dunlap, Clerk
Warren County Board of Commissioners

