
AN ORDINANCE TO AMEND THE ORDINANCES OF WILKES COUNTY, GEORGIA TO PROVIDE COMMPREHENSIVE GUIDELINES FOR THE SAFE AND ORDERLY DEVELOPMENT OF SOLAR ENERGY IN WILKES COUNTY, GEORIGA.

WHEREAS it is in the best interest of Wilkes County, Georgia to facilitate the siting, construction, installation, and decommissioning of solar energy systems (SESs) in Wilkes County in a manner that protects the health, safety, and welfare of the citizens of Wilkes County, and at the same time mitigates any adverse impacts to wildlife, agricultural lands, forests, and other natural landscapes;

THEREFORE BE IT ORDAINED by the Board of Commissioners of Wilkes County, Georgia that all of Article VI of Chapter of 8 of the Wilkes County Code of Ordinances is repealed and replaced as follows:

Article I.

Article VI of Chapter 8 of the Code of Wilkes County, Georgia, is hereby amended by repealing the entirety of the Article and replacing it with the following:

ARTICLE VI. SOLAR INSTALLATIONS

Sec. 8-138. All solar energy systems; definitions

Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- 1) *Solar energy system (SES)* means 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 these ordinances, SES refers only to (1) photo voltaic 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.
- 2) *Integrated SES* means 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 the house, building, or other structure. An integrated SES may be incorporated into, among other things, a building facade, skylight, shingles, canopy, light, or parking meter.
- 3) *Ground mounted SES* means an SES that is structurally mounted to the ground and does not qualify as an integrated SES or small scale SES. For purposes of these county ordinances, any solar canopy that does not qualify as an integrated or small scale SES shall be considered a ground mounted SES regardless of where it is mounted.
- 4) *Small scale SES* means an SES that transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or chemical means, principally for use on the same property and covers an area of 1 acre or less.

Sec. 8-139. Solar energy systems; applicability; general requirements for all SES

1. This article applies to the siting, construction, installation, and decommissioning of any SES to be constructed or installed within the jurisdiction of Wilkes County.
2. An SES shall comply with all applicable federal, state, and local laws, including the requirements of applicable building, fire, electric, and plumbing codes. In addition to the requirements provided in this Article, an SES shall adhere to the requirements of the County zoning district in which they are located, including, but not limited to, setbacks, height restrictions, lot area coverage requirements and buffer requirements. To the extent the requirements of this Article and the applicable zoning district conflict, this Article shall control.
3. *Unreasonable glare.* No SES shall emit an unreasonable glare. Exterior surfaces of the systems and related equipment shall have a non-reflective finish. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto the habitable portion of adjacent buildings or properties, or onto roadways, in such a manner as to cause a nuisance, impair the vision of a driver of any vehicle, or be detrimental to public health, safety, and welfare.
4. *Requirements for labeling and signage, installation, structural certification, and roof covering must comply with applicable building codes.* All systems must be clearly marked, including, but not limited to:
 - a) Main service disconnects;

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- b) All conduit, raceways, enclosures, cable assemblies and junction boxes to alert the fire service to avoid cutting them, every 10 feet, at turns and at penetrations, and at all combiner and junction boxes.

5. *Proof of utility.* No permit shall be issued without proof that any electrical utility with power to the property has been informed of applicant's intent to install an SES.

6. *Solar easements.* A property owner shall be responsible for negotiating with, and obtaining from, surrounding property owners any desired solar easement and for properly recording and enforcing same.

7. *Conformance with National Electric Code.* All SESs must be installed according to the adopted version of the National Electric Code.

Sec. 8-140. Ground mounted SES.

1. **Signage.** Ground mounted SES facilities shall display signs in a clearly visible manner that:

- a. state the risk that may result from contact with an SES;
- b. identify the manufacturer or installer and the owner or operator of the SES; and
- c. provide a 24-hour emergency contact phone number, which shall be placed at the entrance of the facility.

2. **Setbacks.** A ground mounted SES:

- a. shall be located no closer than 100 feet from any public right-of-way;
- b. shall be located no closer than 200 feet from any property line, provided, however that the owner of the abutting property may agree to allow the SES to be less than the distance required herein by providing written, signed and notarized permission.; and
- c. shall be located no closer than 300 feet from any residential dwelling or any other building actively being used as a school, hospital, church, nursing home, retirement home or restaurant, provided, however that the owner of the building may agree to allow the SES to be less than the distance required herein by providing written, signed and notarized permission..

3. **Buffers.** A ground mounted SES shall have a visual buffer of natural vegetation, plantings, earth berms, and/or fencing that provides a reasonable visual and lighting screen to reduce the view of the SES from surrounding property lots consistent with the zoning, character, and uses of the area. i

4. **Decommissioning Plan; annual reporting.** A ground mounted SES shall have and maintain a valid and current decommissioning plan that includes all of the elements set forth in Section 8-140.4.b.11 infra. The Special Use Permit holder shall: (i) revise the decommissioning plan within thirty (30) days of any material changes, problems as determined by the County, or material inaccuracies in the plan; and (ii) certify annually, on the anniversary of the Special Use Permit approval, in writing to the Board of Commissioners that all of the elements of the decommissioning plan are accurate, valid, and workable, including, but not limited to, providing proof satisfactory that the surety bond required in this Article remains in force and effect and is sufficient to cover the costs associated with decommissioning.

5. **Emergency personnel access.** To ensure emergency personnel access, ground mounted SESs shall provide adequate access and spacing in order to: (1) ensure access and egress; and (2) provide pathways throughout area.

6. **Special Use Permit.** A ground mounted SES shall be allowed only by Special Use Permit solely within the Agricultural and Industrial districts. In addition to the general requirements for a Special Use Permit application set forth in the County Zoning code, the following shall be contained in any Special Use Permit application for a ground mounted SES, to be considered by the Planning Commission and Board of Commissioners as additional criteria for their respective recommendation and decision:

a. **Basic Information.** The applicant shall submit documentation that provides the following:

1. The address of the property on which the SES will be located;
2. The applicant's name, address, telephone number, and e-mail address;
3. The property owners name, address, telephone number, and e-mail address;
4. If known, the SES operator's name, address, telephone number, and e-mail address;
5. If known, the installation company's name, address, telephone number, e-mail address, and license number; and
6. Evidence of the applicant's control of the property, such as a deed, lease, or other agreement with the landowner.

b. **Planning.** The applicant shall submit the following:

1. Fee Schedule. A application filing fee schedule may be established by the Board of Commissioners to help defray the cost of processing reasonably necessary to process a Special Use Permit hereunder. All filing fees must be paid in full prior to review of an application.
1. A site plan of the property that depicts the locations of all existing and proposed structures (including solar arrays, inverters, transformers, electrical substations, and buildings), property lines, rights-of-way, roads, required setbacks, and buffers, and the percentage of the proposed surface area coverage of the SES facilities on the lot;
2. A topographic map that depicts vegetative cover, watersheds, or wetlands on the property;
3. Plans depicting proposed grading and topographical changes to the site.
4. Plans depicting proposed lighting, fencing, and vegetation management.
5. Plans depicting new vegetative cover on the site and plans designed to avoid the removal of trees or natural vegetation.
6. A soil erosion plan that adequately protects from erosion and runoff during construction and post construction.
7. To the extent the SES is in the Agricultural District, a map that describes the land quality and identifies prime farmland.
8. A buffer plan that demonstrates that any buffer will: (1) minimize impacts of the SES on surrounding residential dwelling units and buildings actively being used as a school, hospital, church, nursing home, retirement home or restaurant, as required by this ordinance; and (ii) seek to preserve the natural tree growth, natural vegetation, natural landforms, and views along the SES perimeter to the extent reasonably practicable.
9. Plans for connecting the SES to the electrical grid.
10. A list of all federal and state permits required for the solar farm.
11. A decommissioning plan that contains the following:
 - (a) The name, address, telephone number, and e-mail address of the person(s) and/or entity(ies) responsible for implementing the decommissioning plan. The plan shall also state that the property owner has been informed by the applicant or SES owner/operator of the decommissioning responsibility and projected cost if that responsibility is allocated to the property owner by agreement between the SES owner/operator and property owner;
 - (b) A statement of conditions that require the decommissioning plan to be implemented;

(c) A removal plan that identifies all structures, components, and non-utility owned equipment that shall be removed;

(d) 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;

(e) The anticipated life of the SES and the estimated decommissioning cost;

(f) A surety bond in an amount sufficient, in the determination of the Board of Commissioners, to guarantee that funds will be available for decommissioning and restoration of the SES. The bond shall be issued by a surety that is authorized by law to conduct surety business in Georgia and is listed in the most recent edition of the U.S. Department of the Treasury Circular 570 as being approved as a surety in an amount no less than the amount of the surety bond required hereunder.

i. The bond shall consist of three components for purposes of determining its amount. The first component will address environmental liabilities including hazardous materials liabilities, such as risks associated with hazardous waste and hazardous substances. The second component will address the decommissioning, removal, and proper disposal, as appropriate, of improvements and facilities. The third component will address reclamation, revegetation, restoration, and soil stabilization. There shall be a single instrument to cover all potential liabilities. The entire bond amount may be used to address a single risk event such as hazardous materials release or groundwater contamination regardless of the fact that in calculating the total bond amount other risks were also considered. If the bond is used to address a particular risk, the holder would then be required to increase the bond amount to compensate for this use.

ii. The surety bond shall remain in place as long as the SES exists, regardless of whether it is actively operating. The surety bond shall be released if all work required under the decommissioning plan is properly and timely executed. If the work required under the decommissioning plan is not properly or timely executed, the county may call or forfeit such surety bond and use the proceeds therefrom to execute the decommissioning plan.

12. A plan that details a fire suppression system sufficient to prevent a fire from spreading off the site. This can be accomplished by removing vegetation, and spreading gravel or other fire-resistant material underneath any equipment likely to drop burning debris should a fire occur. A minimum six-foot wide firebreak composed of gravel or other fire-resistant material placed around the perimeter of the installation may also be used in lieu of, or in addition to the above.

13. Proof of notification to the managing authority of any airport located within five miles of the proposed location.

14. Any other relevant studies, reports, certificates and approvals as may be reasonably requested by the county, including, but not limited to, design review.

c. Changes to SES Facility.

1. Material alteration. An expansion or demolition and reconstruction of an SES facility that covers 20% or more of the current total lot coverage of the SES facility shall be considered a material alteration for purposes of this subsection. A Special Use Permit holder seeking to accomplish a material alteration shall be required to obtain an updated Special Use Permit by following the procedures provided in Sec. 140.1.4.

2. Minor alteration. An expansion or demolition and reconstruction of an SES facility that is less than 20% of the current total lot coverage shall be considered a minor alteration for purposes of this subsection. A Special Use Permit holder seeking to accomplish a minor alteration shall be required to obtain approval from the Board of Commissioners and shall provide sufficient information showing that the alteration will be consistent with the existing permit and plans, including, if necessary, increasing the bond required in this Article for decommissioning.

7. **Decommissioning.** To the extent a ground mounted SES facility has not been active and in continuous service for a period of one year, the applicable Special Use Permit shall be deemed abandoned and shall terminate upon written notice to the permit holder; thereafter, the site shall not recommence operations unless a new Special Use Permit is obtained. A ground mounted SES facility that has not been active and in continuous service for a period of one year shall be required to commence decommissioning pursuant to the approved decommissioning plan. Decommissioning shall be completed, and the site restored pursuant to the approved restoration plan, within six months of commencement of decommissioning. A site will be considered decommissioned when, after inspection and approval by the county, all structures and equipment are removed, and the site is restored pursuant to the approved decommissioning plan.

Sec. 8-141. Small scale and Integrated SESs

1. **Small Scale SES.** Small scale SESs shall be considered an accessory use in all zoning districts subject to the following requirements:

- a. When located on the ground or attached to a framework located on the ground, SES panels shall not exceed 20 feet in height above the ground, or the height of existing structure, whichever is lower.
- b. Small scale SES panels shall conform to all setback requirements as for other uses in the districts in which they are located.
- c. Small scale SES panels shall not exceed 50% lot coverage or the maximum allowable coverage for the district in which they are located, whichever is less.

2. **Integrated SES.** Integrated SES panels shall not project vertically more than the height requirements for the district in which they are located. The owner shall provide proof of notification to the managing authority of any airport located within five miles of the proposed location where the size of installation exceed one acre. To ensure emergency personnel access, integrated SESs shall provide access and spacing requirements in order to: (1) ensure roof access and egress; (2) provide pathways throughout the roof area; and (3) provide smoke ventilation opportunity areas.

Sec. 8-142. Violations; penalties

1. **General Penalties.** Failure to comply with any provision of this Article, Chapter 24 of these ordinances, as applicable, and plans approved subject to this Article, is hereby declared to be a violation and unlawful. Such violation shall be subject to the revocation of a validly issued Special Use Permit subject to minimum requirements of due process. The remedies provided herein are cumulative to, and not instead of, any other relevant remedial measures provided elsewhere in these ordinances.

2. **Ground mounted SES.** In addition to the penalties provided in Section 8-142-1 supra, ground mounted SES facilities are subject to the following penalties:

- a. Violation of any provision of this Article VI or Chapter 24 of these ordinances, as applicable, for failure to comply with any of its requirements shall, upon conviction thereof, be punished according to Section 1-9 of Chapter 1 of this code of ordinances. Each day such violation exists shall be considered a separate offense.

b. Any violation of Georgia law related to ground mounted SESs shall constitute a violation of this Article.

Article II.

Severability. Should any of this Ordinance be declared invalid by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid.

Article III.

Codification. It is the intention of the Board of Commissioners, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Wilkes County, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Article IV.

Effective Date. This Ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

The above Ordinance was read and approved by the Board of Commissioners of Wilkes County, Georgia on the 11TH day of January, 2024.



Wilkes County Board of Commissioners

By: [Signature]
Sam Moore, Chairman

By: [Signature]
Esper Lee, District 1 Commissioner

By: [Signature]
Ed Geddings, District 2 Commissioner

By: [Signature]
Charles Jackson, District 3 Commissioner

By: [Signature]
Clem Slaton, District 4 Commissioner

ATTEST

[Signature]
Karen Burton, County Clerk (seal)