Alamance County Solar Energy System Ordinance

ARTICLE I

INTRODUCTION

WHEREAS, the previous Heavy Industrial Development Ordinance was passed in 2011, and included solar energy systems as a regulated industry; and

WHEREAS, an amended Heavy Industrial Development Ordinance was passed in 2019, and included solar energy systems as a regulated industry; and

WHEREAS, recent solar energy system development in Alamance County has revealed confusion and misunderstandings over language and requirements imposed on solar energy system development; and

WHEREAS, Alamance County's abundant resources, sound infrastructure, desirable location in the U.S. southeast corridor, and a diverse economy, make it a natural choice for business and industry; and

WHEREAS, business, jobs, and growth require energy and are necessary to the economy and continued vitality of Alamance County; and

WHEREAS, the existing regulations placed on solar energy systems by the Heavy Industrial Development Ordinance do not adequately address the unique nature of Alamance County, and are not achieving its intended goal of allowing for the placement and growth of solar energy systems, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Alamance County; and

WHEREAS it is the intent of the Planning Board of Alamance County to recommend changes to the existing Heavy Industrial Development Ordinance which strive to balance the needs of all the citizens of Alamance County; and

WHEREAS the Alamance County Planning Board fully considered and finds that this Solar Energy Systems Ordinance is consistent with the adopted Alamance County Land Development Plan; and

WHEREAS the Alamance County Planning Board voted unanimously to recommend adoption of this Solar Energy Systems Ordinance on July 23, 2020.

NOW THEREFORE THE BOARD OF COMMISSIONERS OF THE COUNTY OF ALAMANCE HEREBY ORDAINS AND ENACTS INTO LAW THESE ARTICLES AND SECTIONS:

Section 1. Authority. The Alamance County Board of Commissioners enacts this Ordinance pursuant to its police powers, as set forth in and authorized by Section 153A-121(a) of the North Carolina General Statutes; pursuant to its power to regulate businesses as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate noise as set forth and authorized by Section 153A-133 of the North Carolina General Statutes; pursuant to its power to regulate solid waste as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate explosive, corrosive, inflammable, or radioactive substances as set forth and authorized by Section 153A-128 of the North Carolina General Statutes and pursuant to its planning and zoning powers, as set forth in and authorized by Chapter 160D of the North Carolina General Statutes upon its effective date.

Section 2. Purpose. The following regulation of solar energy systems development are adopted for the purpose of promoting the health, safety, and general welfare of the citizens of Alamance County, and to promote the peace and dignity of the County. The Alamance County Commissioners hereby establish certain criteria relating to solar energy systems and their associated land uses. These uses by their very nature produce potentially objectionable levels of aesthetic impact, traffic, noise, light, and/or other impacts upon the lands adjacent to them. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Alamance County.

Section 3. Territorial Coverage. Pursuant to G.S. §153A-122, this Ordinance shall apply to all unincorporated areas of Alamance County in which no town or city is exercising extraterritorial jurisdiction under Article 19 of Chapter 160A of the North Carolina General Statutes.

ARTICLE II

Section 1. Exceptions to Applicability.
The following are exceptions, by right, from regulations under this Ordinance:

1) Agricultural Farming Operations
2) Residential Land Uses

Exception from this Ordinance does not grant exceptions from other applicable Ordinances including, but not limited to, the Alamance County Noise Ordinance, Watershed Protection Ordinance, Flood Hazard Protection Ordinance, etc.

Section 2. Definitions. The following definitions shall be used for the purposes of interpreting this Ordinance. For terms not defined below, the common usage of the term shall prevail.

Agricultural Farming Operations means a bona fide farming operation whose primary purpose is the production of agricultural products including but not limited to crops, fruits, Christmas trees, forestry, vegetables, ornamental or flowering plants, dairy, livestock, poultry, swine, and all other forms of agricultural products having a domestic or foreign market. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. Included with this definition is the operation, equipment operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation. Solar Energy Systems located on the same parcel(s) as bona fide farming operations are subject to regulation under this Ordinance.

Area of Operations means the portion of a tract of land on which an SES is situated that is actually under use, or may actually be put to use in the future, for operations by the SES, including the area occupied by buildings, structures, parking, equipment, storage, stormwater control measures, and other uses necessary for the business of the industry. Area of operations shall not include required setbacks or those areas required by this Ordinance, or any other regulations, to be kept in a vegetative state.

Board of Commissioners means the Alamance County Board of Commissioners.

Commercial means the use of land for the purpose of operating a business intended to profit, whether or not a profit is actually realized, through the exchange of monies for goods and/or services.

Construction Activities includes any studies, investigations, operations, improvements, or other activities undertaken at the site of a proposed regulated industry pertaining to the construction, placement, erection, or establishment of the same, including but not limited to surveys, soil and other environmental tests, clearing and grading, pouring footers or pads, placing building materials or equipment at the site, locating or constructing buildings, structures, or other improvements, or any other similar activities.

County means the County of Alamance.

D.E.N.R. means the North Carolina Department of Environment and Natural Resources.

D.O.T. means the North Carolina Department of Transportation.

Person means a firm, corporation, general partnership, limited partnership, Limited Liability Company, sole proprietor, individual, individual acting on behalf of another, or any other entity of any type whatsoever.

Planning Board means the Alamance County Planning Board.

Planning Department means the Alamance County Planning Department.

Replacement Value means the cost to restore a structure to its previously existing condition as computed by an appraisal which has been conducted by an appraiser holding a North Carolina State Certified General Real Estate Appraisal License and conducted in compliance with generally accepted practices within the appraisal community.

Residence or Residential means the use of land for the purpose of housing or living accommodations for human occupants. Residential land uses shall also include any accessory uses of the land that is not commercial in nature, as defined by this Ordinance, and incidental to the residential use.

Solar Energy System (SES) means all the components and subsystems, including equipment and structures, required to convert solar energy into electric or thermal energy suitable for use. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. This definition shall not apply to an agricultural farming operation, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

Stream means an intermittent or perennial stream, pond, lake, or reservoir whose presence and location has been determined by the North Carolina Division of Water Resources, or if it appears on any of the following types of maps: the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture; the most recent version of the 1:24,000 scales (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Information Coordinating Council and by the NC Environmental Management Commission.

Section 3. Regulations and Standards.

Prior to the issuance of any permit under this Ordinance, the SES must demonstrate compliance with the regulations and standards imposed by this section.

A. Minimum Lot Size.

No SES shall be situated on a tract of land less than ten (10) acres in size. Multiple parcels of land may be joined together to comprise the tract of the SES, but all parcels so joined must be contiguous and under the ownership and/or control of the same person or corporation at the time of application.

B. Operations Setback.

All SES shall be required at the time of the issuance of a permit to create and thereafter maintain a seventy-five foot (75') minimum operations setback from all exterior property lines of the parcel(s) on which they are located. Operations setbacks shall be measured in a straight line without regard for intervening structures or objects from the closest exterior edge of the property line of the parcel(s) on which the area of operations is located to the nearest area of operations of the SES. Vegetative buffers, fencing and access roads constructed and/or maintained for the sole use of the SES may be located within the operations setback. The purpose of this requirement is to minimize the potential negative impacts of conflicting uses of land.

In the event a Historic landmark recognized by Alamance County Historic Properties Commission is located on the same parcel as an SES, the SES shall be required at the time of the issuance of a permit to create and thereafter maintain a one hundred-foot (100') setback from the closest edge of the Historic Landmark to the area of operations facing the Historic Landmark. Setbacks for the other sides of the SES remain seventy-five feet (75').

C. Aviation Notification

a. A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
b. For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the informational hearing. Proof of delivery of notification and date of delivery shall be submitted with permit application. Notification shall include:
    i. Location of SES (i.e. map, coordinates, address, or parcel ID)
    ii. Solar technology (i.e. polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.)
    iii. Approximate number of solar modules/panels
    iv. System mounting (i.e. fixed-tilt on flat roof, fixed-tilt ground-mount, 1-axis tracking ground-mount, etc.)
    v. The maximum height of the array from the ground or roof surface
    vi. The maximum height of any new utility poles
    vii. Power capacity of the system, in both DC and AC Watts where applicable
    viii. Acreage of array and acreage of total project
    ix. How will the project connect? (i.e. net meter, to existing distribution line, to new distribution line, to transmission line)
    x. Will a substation be constructed? If so, provide location and size
    xi. Is the site with fine nautical miles of aviation operations? If so, provide the required SGHAT analysis results
c. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) or equivalent shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days before the informational hearing. Proof of delivery of notification and date of delivery shall be submitted with permit application.
    i. Airport operations at airport in the National Plan of Integrated Airport Systems (NPIAS)[12] within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina[13]
    ii. Airport operations at airport *not* in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports

Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 7.b.i and 7.b.ii above for accurate records of the as-built system.

D. Area of Operations

Construction or operation of the SES outside of the designated area of operations is prohibited.

Designated area of operation of an SES shall not be allowed in any area located within a special Flood Hazard Area as defined by the current Alamance County Flood Damage Prevention Ordinance.

E. Stream Setbacks

All SES shall be required to maintain a fifty foot (50') minimum stream setback from any stream as defined in this Ordinance. Stream setbacks shall be measured from the closest edge of the designated area of operations to the bank of the stream.

F. Landscaping & Screening

All SES shall be required to provide an acceptable landscaping/screening plan and to continuously maintain the plantings required by the plan. The purpose of this requirement is to establish a continuous vegetative screen in order to minimize/mitigate the visual impacts of the SES on adjacent properties as well as to maximize the buffering of noise and particulate matter. Screening shall be a minimum of thirty (30) feet in width and shall consist of a minimum of two staggered rows of plantings. Plantings shall be a minimum of eight (8) feet on center with a maximum of ten (10) feet on center and be at least 36"-48" tall in seven (7) gallon size at time of installation. Mixed borders are encouraged. As part of the review process, the Planning Director may, at their discretion, consider existing screening and vegetation on the property. Suggestions for screening plans may be found in Appendix A of this ordinance.

In the event that an applicant is unable to plant required screening and/or landscaping at the time of building permit issuance, the applicant may post a bond or certified check in the amount of 1.5 times the landscape architect's estimate for the proposed plan. Should the applicant fail to install the necessary landscaping/screening within twelve (12) months of building permit issuance, the County will be entitled to complete the landscaping plan using the proceeds of the bond or certified check.

G. Gating & Fencing

At a minimum, the area of operations of the SES shall be completely enclosed by a minimum six (6) foot high fence with a self-locking gate.

H. Lighting

Access ways, walkways and parking areas should be lighted adequately by lighting fixtures which shall be installed so as to protect the road and neighboring properties from direct glare or hazardous interference of any kind. Applicants are encouraged to use light shielding and fixtures that are

approved by the International Dark Sky Association (IDA) as these fixtures conserve energy, reduce monthly costs, and minimize the impact of light pollution on surrounding properties.

I. Compliance With Other Governmental Requirements

Applicants under this ordinance are required to comply with all other applicable County, State, and Federal regulations. Said regulations include but are not limited to watershed protection, stormwater, erosion control, air quality, water quality, flood protection, building code, and NCDOT requirements. The Planning Director may require the applicant to submit additional information based on the permitting requirements. Failure to submit any additional information required by the Planning Director shall result in the denial or revocation of an SES Permit.

J. Decommissioning

a. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application. This plan shall provide for (see Appendix C for a sample decommissioning plan):
   1. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
   2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
   3. Restoration of property to condition prior to development of the SES.
   4. Timeframe for completion of decommissioning activities, not to exceed one year.
   5. Description and copy of any lease or any other agreement with landowner regarding decommissioning.
   6. Name and address of person or party responsible for decommissioning.
   7. Plans and schedule for updating this decommissioning plan.

Before final electrical inspection, the applicant must provide evidence that the decommissioning plan was recorded with the Register of Deeds.

ARTICLE III

GRANDFATHERING AND NONCONFORMING USES

Section 1. Grandfathering of Existing Uses.

Any SES, existing and in legal operation upon the date of initial adoption of this Ordinance which does not conform to the requirements hereof shall constitute a nonconforming use. Such nonconforming use may continue at the site of said operations, subject to the provisions of Sections 2, 3, and 4 below. In all cases the burden shall be upon the owner or operator of the nonconforming use to show clear, cogent, and convincing evidence that the use qualifies for such status.

a. Owners of non-conforming uses shall have a period of one (1) year from the date of adoption of this ordinance to apply, at no cost, for a non-conformance permit which will establish them as a non-conforming use grandfathered under this ordinance. After the initial one (1) year period, industries shall be required to pay a fee for the non-conformance permit, as established by this ordinance. Failure to apply for a nonconformance permit will constitute a violation of the ordinance as set forth in Article V.

b. As part of the application for a non-conformance permit, the applicant shall be required to submit a site plan of existing operations on the property. For this purpose, the applicant shall not be required to have a site plan drawn by an engineer or surveyor; however, it is strongly recommended. The purpose of this requirement is to establish the boundaries of the non-conforming use at the time of the adoption of this ordinance.

Section 2. Alteration or Expansion of Nonconforming Use.

A nonconforming use may be altered, added to, expanded, or enlarged at the site of its operations, provided that the real estate used for expansion was owned or leased by the SES prior to the date of initial adoption of this ordinance.

Section 3. Reconstruction of Nonconforming Use.

In cases of damage to a nonconforming use, repairs may be made and the nonconforming use may be continued; provided, that said hazard was not caused by the intentional conduct of the owner or operator; provided further, that in making repairs the owner or operator shall ensure that the footprint(s) of the original building(s) or equipment installation(s) is/are maintained, or, in case of an expansion of the same, that said expansion meets the requirements as specified above. In all other cases of damage to a nonconforming use, the same may be repaired and continued only if permits are obtained pursuant to Article IV and all of the requirements of this Ordinance are met.

Section 4. Discontinuance of Nonconforming Use.

Notwithstanding the provisions of Section 3 above, if a nonconforming use is, for any reason, discontinued for one hundred eighty (180) or more consecutive days, such use may not resume until

permits are obtained pursuant to Article IV below and all of the requirements of this Ordinance are met. For purposes of this Section, an SES shall not be deemed to be discontinued during such time as the owner or operator thereof has temporarily suspended operations solely due to the seasonal nature of the business.

Section 5. Transfer of Permits & Sales of Nonconforming Uses.

Permits issued for any SES runs with the land and may be transferred with the property; provided that all permits required by both this ordinance and any other governmental agency are maintained as required.

ARTICLE IV

PERMITTING PROCEDURES

Section 1. General

All SES shall be required to apply for a permit from the Alamance County Planning Department prior engaging in any construction and/or operational activities.

Section 2. Photo Identification Required

Applicants seeking to obtain a permit under this ordinance shall be required to provide a form of photo identification to the Alamance County Planning Department pursuant to County policy.

Section 3. Pre-Application Meetings Required

The applicant or an authorized corporate officer is required to meet in person or by video conference, with a Planning Staff member to discuss the nature of their application at least 14 days prior to making a formal application and submitting a site plan.

At this pre-application meeting, the applicant shall identify in writing any additional permits which the applicant needs in order to operate the regulated industry and provide a reasonable timeline for obtaining those permits.

Section 4. SES Permits

An SES Permit shall be required before the owner or operator of an SES commences any construction activities.

1. **Informational Hearing and Notice**
    a. Upon the submission of a complete application for an SES Permit, an informational hearing on the proposed SES permit shall be scheduled for the next regular meeting of the Planning Board.
    b. Notice of an informational hearing at the Planning Board meeting shall be provided in the following manner:
        i. The applicant shall prominently post a notice of the informational hearing on the site

proposed for the issuance of the SES permit in the adjacent public street or highway right-of-way. When multiple parcels are included within the application a posting on each individual parcel is not required, but the applicant shall post sufficient notices to provide reasonable notice to interested persons. Placement must be approved by the Planning Director.

ii. The applicant shall mail a notice of the informational hearing, at least 21 days prior to the hearing, by certified mail at the addresses listed on the county tax abstracts for the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, and provide proof of said mailing to the Planning Director.

iii. The applicant shall produce a list showing all names and addresses to whom a notice of informational hearing was mailed, and shall certify that proper notice was given to all required persons or organizations. Improper notice or certification shall be grounds to deny an SES permit.

c. The Planning Board shall hold the informational hearing on the application for the SES Permit. At this informational hearing, the SES and community members may present information and comment on the application.

d. If, after the mailing of notice but prior to the issuance of an SES Permit, any changes or amendments are made to an approved site plan which impact the requirements of this ordinance, the changes or amendments must be submitted to the Planning Department for approval. In the event an application is resubmitted with substantial impacts, the Planning Director may require an additional informational hearing and re-approval of the application.

e. Upon the issuance of an SES permit, the Alamance County Land Records System or Geographic Information System shall be changed to include a notice reasonably calculated to alert a person researching a particular parcel that the parcel contains an SES.

2. Fees

All applicants shall be required to pay a fee at the time of filing an application as determined by the Alamance County Board of Commissioners during the establishment of the annual budget for the given fiscal year. All fees are non-refundable.

3. Approval of SES Permit Applications

a. All applicants shall be required to submit a site plan for review as part of the permitting process. All site plans shall be drawn to scale by a Registered Surveyor or Engineer pursuant to the guidelines provided in Appendix B of this ordinance.

b. The Planning Department shall review the site plan based on compliance with the regulations imposed by this ordinance and make a recommendation of approval or denial.

c. Completed applications shall be presented to the Planning Board for an informational hearing and determination of compliance with the requirements of this Ordinance. If the Planning Board determines that the application is compliant with the requirements of this Ordinance, the Planning Board shall direct the Planning Director to approve the permit. If the Planning Board determines that the application is not compliant with the requirements of this Ordinance, the Planning Board shall issue a written determination of its reasons and deny the application.

4. **Appeal of a Denied Application**

Within 30 days of the issuance of the written recommendation of denial determination by the Planning Board, the applicant or Planning Director may appeal the decision of the Planning Board to the Board of Commissioners who shall review the written determination of the Planning Board and review the application for compliance with the requirements of this Ordinance. If the Board of Commissioners determines that the application is compliant with the requirements of this ordinance, it shall issue the SES permit. If the Board of Commissioners determines that the application is not compliant with the requirements of this ordinance, it shall deny the application. The decision of the Board of Commissioners may be appealed per Article VI of this Ordinance.

Section 5. Final Approval

A valid SES Permit shall be required before the owner or operator of an SES commences, continues, or maintains operations of the SES.

1. **Post-Development/As-Built Site Plans**

All applicants shall be required to submit a final "as- built" site survey to the Alamance County Planning Department. Post-Development site survey shall be drawn by a Registered Surveyor or Engineer pursuant to the guidelines provided in Appendix B of this ordinance. This submission shall consist of two (2) paper copies.

2. **Final Site Inspection**

A final site inspection shall be performed by the Alamance County Planning Department to ensure that SES was established in harmony with the approved site plan and the provisions of this ordinance and that all required permits from other governmental or regulatory agencies have been issued.

3. **Appeal of a Revocation of SES Permit**

In the event that an SES Permit is revoked for failure to comply with the approved site plan, the applicant may appeal the Planning Department's decision to the Board of Commissioners pursuant to Article VI of this ordinance.

Section 6. SES Permit Renewal Required

SES permits issued under this Ordinance shall be renewed subject to a satisfactory inspection every three (3) years.

1. **Renewal Fees**

Prior to renewing the permit, the applicant shall be required to submit a renewal as determined by

the Alamance County Board of Commissioners during the establishment of the annual budget for the given fiscal year. All fees are non-refundable.

2. Site Visit Required

To ensure continued compliance with this Ordinance, a site visit must be conducted by the Alamance County Planning Department prior to issuing a renewed permit. It is the responsibility of the permit holder to schedule a site visit with the Alamance County Planning Department.

3. Other Requirements

a. Proof of Tier II reporting, if applicable
b. Proof of continued compliance with all requirements of this Ordinance, including screening and fencing, and maintenance of all required local, state, and federal permits.
c. If the permitted location has been the subject of two or more enforcement actions within the renewal period, the Planning Director, at their discretion, may require a public hearing before the Alamance County Planning Board prior to the renewal of the SES Permit.

4. Appeal of a Denial of a renewal of an SES Permit

In the event that an SES Permit renewal is denied, the applicant may appeal the Planning Department's decision to the Board of Commissioners pursuant to Article VI of this ordinance.

ARTICLE V

ADMINISTRATION, ENFORCEMENT, AND VIOLATIONS

Section 1. Administration and Enforcement.

The Planning Director of the Alamance County Planning Department shall be responsible for the administration and enforcement of this Ordinance.

a. The Planning Director, or his/her designee, shall determine whether any of the provisions of this Ordinance are or have been violated. If it has been determined that a violation exists, notification shall be sent, in writing, to the person responsible for such violation. All notices shall be sent via Certified mail.

b. Those found in violation shall be given thirty (30) days to remedy the violation. At the end of the thirty (30) day period, the Planning Director may, at their discretion, grant additional time to obtain compliance provided that the violator has made a good-faith effort to bring their property into compliance. In no circumstance, unless approved by the Planning Board, shall a person in violation be given more six (6) months to obtain compliance.

c. As part of enforcement, the Planning Director may order the discontinuance of illegal use of

land, buildings, or structures; the removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; the discontinuance of any illegal work being done; and may take any other action authorized by this Ordinance or other law to insure compliance with, or to prevent violations of, the provisions hereof.

Section 2. Interference. It shall be unlawful for any person to interfere with, hinder, or harass the employees, agents, or authorized representatives of the County in the performance of their duties under this Ordinance.

Section 3. Violations: Penalties.

a. Any violation of this ordinance shall result in a non-conformance fee in the amount of $500, per violation.
b. Each day's continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.

Section 4. Equitable Enforcement: Order of Abatement. This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G. S. § 153A- 123(d) and (e).

Section 5. Cumulative Remedies. The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of a remedy or enforcement of a penalty by the County hereunder shall not preclude the election of any other remedy or enforcement of any other penalty by the County which may be provided under this Ordinance or by law.

ARTICLE VI

APPEALS

1. If an individual has been cited for a violation of this ordinance or has had a permit denied or revoked by the Planning Department, they may appeal the Planning Department's decision to the Board of Commissioners. Appeals must be submitted, in writing, within 30 days of the notice of violation or notice of denial or revocation. At that time, the applicant's appeal will be placed on the next available Planning Board agenda for the Planning Board to review. The Planning Board will then make a recommendation to uphold or overturn the Planning Department's decision to the Alamance County Board of Commissioners. The Board of Commissioners shall make the final determination to uphold or overturn the Planning Department's decision.

2. Within 30 days of receiving notice, every decision of the Board of Commissioners shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160D-1402.

3. In cases of appeals of violations, denials, or revocations of permits, notice shall be provided as required by law.

ARTICLE VII

VARIANCES

Section 1. Quorum and Vote Required for Variance.

The Alamance County Board of Commissioners, as established by N.C.G.S. § 153A-25 *et seq.* shall hear all requests for variances under this ordinance.

A quorum of the Board, necessary to conduct any business of the Board, shall consist of four-fifths of the total membership of the Board.

The concurring vote of a simple majority of the total membership of the Board shall be necessary in order to approve an application for a variance.

Section 2. Application of the Variance Power.

A variance shall only be allowed by the Board of Commissioners in cases involving practical difficulties or unnecessary hardships. Any authorizing of a variance shall not destroy the intent of the ordinance. Any authorized variance shall be recorded in the minutes of the Alamance County Board of Commissioners. A hardship, as used in the context of this section, shall be considered to be some unique or unusual character of the proposed site, including but not limited to unique size, shape, contour, or distance requirement. An economic hardship to the applicant is not to be considered for a variance.

The Board may grant a variance upon finding that the following conditions exist:

1. Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.

2. The variance will not confer upon the applicant any special privileges that are, or would be, denied to other similarly situated individuals.

3. This ordinance would deprive the applicant of rights commonly enjoyed by other similarly situated individuals.

4. The variance would not seriously deter from the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.

5. The special circumstances causing the need for variance(s) are not the fault of the applicant.

The Board may impose reasonable conditions upon the granting of any variance in order to protect the public interest or neighboring property owners and to maintain the spirit of this ordinance. Violation of any such conditions shall be a violation of this ordinance and subject to the penalties set forth in this ordinance.

Section 3. Appeals of Board Actions.

Every such decision of the Board of Commissioners shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160D-1402.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Conflict with Other Laws.

Wherever the provisions or application of this Ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this Ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

Upon adoption, this SES Ordinance shall rescind and replace those portions of the Alamance County Heavy Industrial Development Ordinance dealing with solar energy systems.

Section 2. Severability Clause.

If any section or specific provision or standard of this Ordinance is found by a court of competent jurisdiction to be invalid, the decision of the court shall not affect the validity of any other section, provision, or standard of this Ordinance.

Section 3. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

Section 4. Effective Date.

This Ordinance shall become effective and in full force upon its adoption.

The Alamance County Board of Commissioners hereby adopts this ordinance, this the 8th

day of September, 2020.

ALAMANCE COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Commissioner

Commissioner

Appendix A

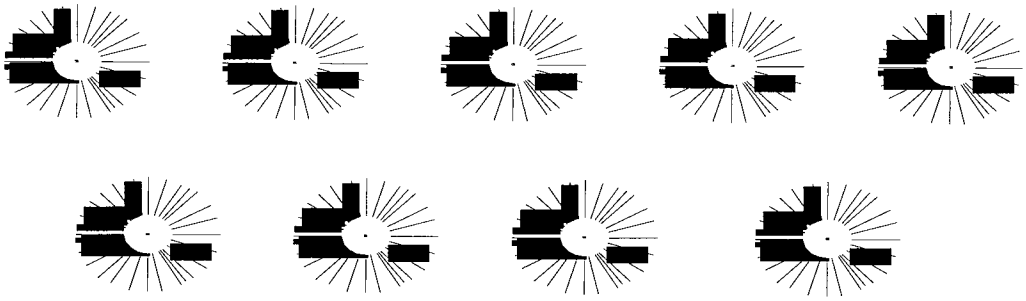
Screening Guidelines and Suggestions

General Guidelines

Screening buffers should be a minimum of thirty (30) feet in width. For all required plantings, minimum size at time of installation shall be at least 36"-48" in 7-gallon containers.

Planting for all screening buffers, in general, should be done in a staggered manner with plants set on a minimum 8-foot and a maximum 10-foot centers. Mixed plantings are encouraged. Variation may be allowed, depending on the trees, shrubs, and other vegetation involved, at the discretion of the Planning Director. In all cases, the screening should produce a continuous hedge that significantly reduces or eliminates the visual impact of the land use. Existing vegetation may be deemed adequate, based on a site visit and visual inspection.

Ex: Staggered Planting



Suggested Vegetation

Applicants are strongly encouraged to consult with the County Horticulturalist to evaluate the quality of soil and probability of survival and proposed plants; including those suggested in these guidelines. Native species are preferred. Plantings which could be considered invasive are strongly discouraged. The following trees are generally approved for visual screening purposes:

- Arborvitae Green Giant
- Cypress , Leyland, Arizona- Carolina Sapphire
- Cryptomeria Yoshino, Radicans
- Holly Species – Nellie R Stevens, Mary Nell, Emily Brunner, Fosteri, Oakland, Oakleaf, Needlepoint
- Osmanthus Fortunei, Fragrans
- Viburnum – evergreen species only , ie. Chindo , Praganese
- Ligustrum Waxleaf, Recurve

Any plant material to be considered must be an evergreen species and have a minimum mature height of at least 8-10 feet.

Appendix B

Specifications for SES Site Plans

Title & General Information

a. Date of submission.
b. Location designation (township, county, state).
c. Name and address of surveyor (Surveyor must sign and seal the site plan).
d. Scale in figures and bar graph.
e. North arrow.
f. Vicinity Map
g. Surveyor's or Engineer's Seal

Site Data

a. Name and address of owner(s).
b. Parcel Identification Number(s)
c. Name of Project.
d. Total acreage
e. Total percentage of proposed and existing impervious surface area.

Project Area (as applicable)

a. Designated Area of Operations; clearly showing all fencing and existing and/or proposed buildings to be located on the site.
b. The distance of the Area of Operations from all property lines.
c. Location of any streams, ponds, or other waterways located on the property.
d. The distance of the Area of Operations from any stream (perennial or intermittent) located on the property.
e. Lake and stream buffers.
f. Location and extent of any marginal land/floodplain.
g. Representative topography.
h. Location and purpose of any existing or proposed rights-of-way or easements.
i. Location of any existing or proposed stormwater control devices.
j. Location of existing or proposed septic tank and drainage field or public utilities
k. Design of the parking lot, showing all points of entrance and exit, proposed lot lighting (if applicable), parking stalls, handicapped-parking stalls, and distance between stalls (aisles); including all dimensions.
l. Location and dimensions of loading berths.
m. Location of proposed gate and signage.
n. If necessary, an exterior lighting plan showing location of all lighting and proposed lighting fixtures.

APPENDIX C: Example Decommissioning Plan

This is a simple example decommissioning plan. Each SES may elect to use their own form.

Decommission Plan for Big Bright Solar Farm,
located at _____
September 10, 2013

123 Edge-of-Town Rd.
Piedmont-ville, NC 21234

Prepared and Submitted by Solar Developer ABC, the owner of Big Bright Solar Farm

As required by the Alamance County, Solar Developer ABC presents this decommissioning plan for Big Bright Solar Farm (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Revegetate any cleared areas with warm season grasses that are native to the region, unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.

All said removal and decommissioning shall occur within 12 months of the facility ceasing to produce power for sale.

The owner of the Facility, currently Solar Developer ABC, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility as outlined in the Special Use Permit in the event the operator of the farm does not fulfill this obligation.

The owner of the Facility will provide Alamance County planning department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner. This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

SES Owner: _____ Date:_____

Landowner (if different from SES Owner):_____ Date:_____