

Ordinance No. 2920

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XXIV, SECTION 115-172 AND ARTICLE XXV, SECTION 115-194.5 TO ADD PROVISIONS FOR SPECIAL REQUIREMENTS FOR SOLAR FARM CONDITIONAL USES.

WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of the Delaware Code, the Sussex County Government has the power and authority to regulate the use of land and adopt a Comprehensive Land Use Plan; and

WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex County, the Sussex County Government has undertaken to regulate the use of land; and

WHEREAS, The Utilities Element of the Sussex County Comprehensive Plan, at Section 7.5 thereof, provides that “The County should encourage the development of renewable energy from a utility-level standpoint in order to realize the potential for more prevalent uses of renewable energy across the state as suppliers work to meet their future energy goals”; and

WHEREAS, Goal 7.3 and Objective 7.3.2 of the Sussex County Comprehensive Plan seek to “Reduce energy consumption through encouragement of energy conservation and renewable energy” and “Encourage renewable energy options”; and

WHEREAS, Strategy 7.3.2.1 of the Sussex County Comprehensive Plan seeks to “Encourage renewable energy sources from a utility level standpoint with a committed power company integration”; and

WHEREAS, Strategy 7.3.2.2 of the Sussex County Comprehensive Plan directs the County to “be adaptive to new renewable energy sources and revisit County Code as needed”; and

WHEREAS, this Ordinance is in furtherance of the foregoing Goals, Objectives and Strategies of the Sussex County Comprehensive Plan; and

WHEREAS, Sussex County has experienced an increase in applications for Solar Farms and Solar Arrays approved as conditional uses and Sussex County seeks to create uniform conditions to be imposed upon them in addition to others that may be necessary given the particular circumstances of an application; and

WHEREAS, it has been determined that this Ordinance promotes and protects the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article XXIV, §115-172 is hereby amended by adding a new subsection I. by inserting the italicized language as follows:

§115-172. Special Requirements.

...

I. Installation of solar panels, solar farms or solar arrays, provided that:

(1) The solar panels, solar farm or solar array area shall be surrounded by a landscaped buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. The landscaped buffer strip shall remain free of any buildings or streets with the exception of entrance areas. These measurements shall be taken from the property line to the nearest point of the solar panels or their support structures. Provided, however, that the setbacks and/or buffering may be increased or waived due to particular site-related conditions.

- (2) *The solar panels, solar farm or solar array area shall be at least 200 feet from any dwelling on property of other ownership.*
- (3) *Any transformers or similar equipment and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling on property of other ownership.*
- (4) *The use shall be for a ground-mounted solar farm and the storage through batteries or similar means of solar-generated electricity.*
- (5) *One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the use and shall provide contact information and instructions to first responders in case of emergency.*
- (6) *The area of the solar panels, solar farm or solar array shall be secured by fencing with a gate with an emergency key box to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.*
- (7) *In order to assure a complete reclamation upon the abandonment, discontinuance or termination of the use, there shall be a decommissioning plan that includes a financial security sufficient to ensure that funds are available for decommissioning and removal of the solar panels, solar farm or solar arrays in their entirety.*
- (8) *Prior to issuance of a notice to proceed with development of the solar panels, solar farm or solar array, a site plan shall be submitted to the Commission for review. The site plan shall be prepared in compliance with this subsection, Article XXVII of this chapter and the following:*
- (a) *Site plans shall designate the existing site conditions, including the existing topography of the site, the locations of all existing woodlands and wetlands. The site plans shall designate the proposed area where the solar panels or solar arrays will be located, the buffer area including the vegetation included within them, and the proposed decommissioning plan.*
- (b) *Approvals shall be required from the appropriate government agencies for the use, including, but not limited to, the State Fire Marshal, the Department of Transportation and for any required stormwater management and erosion and sedimentation control.*

Section 2. The Code of Sussex County, Chapter 115, Article XXV, is hereby amended by adding a new §115-194.5 by inserting the italicized language as follows:

§115-194.5. Solar Facilities.

- A. *Solar panels and similar uses that are accessory to or ancillary to the principal or permitted use on the same lot shall be permitted in all Districts.*
- B. *All other solar panels, solar farms or solar arrays shall require a conditional use and shall comply with the requirements of §115-172.I.*

Section 3. Effective Date.

This Ordinance shall take effect upon the date of adoption by Sussex County Council.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2920 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF APRIL 2023.

**Tracy N. Torbert
Clerk of the Council**