

**CITY OF MATHIS  
ORDINANCE NO. O-24-10-01**

**AN ORDINANCE OF THE CITY OF MATHIS, TEXAS, AMENDING THE CODE OF ORDINANCES BY THE ADOPTION OF REGULATIONS FOR SOLAR ENERGY EQUIPMENT AND SYSTEMS; PROVIDING FOR A VIOLATIONS AND PENALTIES CLAUSE; A SAVINGS AND SEVERABILITY CLAUSE, REPEAL OF CONFLICTING ORDINANCES AND PROVISIONS, ESTABLISHING AN EFFECTIVE DATE AND PUBLICATION.**

WHEREAS, the City Council of the City of Mathis has determined that it is in the best interest of the citizens of this City to avail themselves of solar energy;

WHEREAS, solar energy promotes customers' choice for electric supply;

WHEREAS, solar energy supports healthy air quality and provides a variety of environmental benefits;

WHEREAS, this ordinance seeks to establish standards regarding businesses in constructing and implementing solar energy equipment and devices within the City;

WHEREAS, such regulations established herein are authorized by the police power provisions of the Texas Constitution, and pursuant to such authority, the City Council seek to protect the health, safety and welfare of its citizens with the adoption of this ordinance;

WHEREAS, to promote the health, safety and welfare of its citizens, this Ordinance establishes the standards herein to promote the quality of business activities within the City thereby serving the needs of its' citizens.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MATHIS, TEXAS:**

**Section 1. Solar Energy Devices and Equipment**

That this Ordinance regulating permits for solar energy equipment and systems is hereby adopted as follows:

***Section One - Purpose.***

A. To set forth standards that will assist industry providers and property owners in the determination of the proper installation and placement of solar energy systems, and solar related equipment with the understanding that solar capabilities may not be possible or feasible on all properties within the City of Mathis.

***Section Two. Definitions.***

A. For purposes of this division the following words and terms as used herein are defined to mean the following:

1. ***Accessory Solar Energy System (ASES)*** shall mean an area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one or more free-standing ground or roof-mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.
2. ***City*** shall mean the City of Mathis or where the context indicates, the City Manager or designee.
3. ***City of Council*** shall mean the City Council of the City of Mathis, Texas.
4. ***Glare*** shall mean the effect produced by light with an intensity sufficient to cause loss in visual performance and visibility.
5. ***Person*** shall mean any individual, firm, company, corporation, organization, partnership, association or other legal entity.
6. ***Principal Solar Energy System (PSES)*** shall mean an area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more free-standing ground solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.
7. ***Solar Easement*** shall mean a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written

instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

8. **Solar Energy** shall mean radiant energy (direct, diffuse and/or reflective) received from the sun.
9. **Solar Panel** shall mean that part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.
10. **Solar Related Equipment** shall mean items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy which shall include:
  - a. **Solar Array** shall mean a grouping of multiple solar modules with purpose of harvesting solar energy.
  - b. **Solar Cell** shall mean the smallest basic solar electric device which generates electricity when exposed to sunlight.
  - c. **Solar Module** shall mean a grouping of solar cells with the purpose of harvesting solar energy.
  - d. **solar energy system supporting structure** shall mean all structures and equipment used to support the solar energy system.
11. **Solar Energy System** shall include Accessory Solar Energy Systems and Principal Solar Energy Systems.
12. The following rules of construction shall apply to this Ordinance:
  - a. The singular shall include the plural and the plural shall include the singular where indicated by the context.
  - b. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

**Section Three. Accessory Solar Energy Systems (ASES).**

- A. The following regulations are applicable to all accessory solar energy systems:
  1. ASES shall be permitted as a use by right in all zoning districts.
  2. Exemptions:
    - a. ASES constructed prior to the effective date of this section shall not be required to meet the terms and conditions of this ordinance, but must still adhere to and all regulations that were in place at the time they were constructed. Any physical modification to an existing ASES whether or not existing prior to the effective date of

this section that materially alters the ASES shall require approval under this ordinance. Routine maintenance or like-kind replacements do not require a permit.

3. All on-site utility feeder lines associated with ASES from the array to the final utility connection shall be placed underground.
4. The owner of an ASES shall provide the City written confirmation that the public utility company, to which the ASES will be connected, has been informed of the customer's intent to install a grid connected system and approved by the utility company of such connection. Off-grid systems shall be exempt from this requirement.
5. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system. The City shall be the sole determiner of what is reasonable.
6. All Energy Storage Systems must comply with NFPA Chapter 15, NFPA 855, Standard for the Installation of Energy Storage Systems.

***Section Four – Solar Easements.***

- A. Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Solar easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements under applicable law.
- B. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:
  1. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed.
  2. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement.
  3. Enumerate terms and conditions, if any, under which the easement may be revised or terminated.
  4. Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

5. If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).
- C. In lieu of an easement submitted as described in Section Four – Solar Easements, A. and B. hereinabove, prior to the issuance of a zoning/building permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in any other property owner, its, his, her or their successors and assigns in title or, create in the property itself:
1. The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or
  2. The right to prohibit the development on or growth of any trees or vegetation on any other property, unless a solar easement is established according to the provisions of these regulations.

***Section Five - Screening.***

- A. The support structure for any ground mounted ASES shall be screened from all adjacent rights-of-way and property that is residentially zoned or used for residential purposes. Screening may consist of skirting, landscaping, privacy fence or other type of fence that meets the requirements of the zoning regulations. In the case that landscaping is used for screening of the support structure, evergreen trees that meet the size requirements of the city's landscaping regulations shall be placed at intervals of no more than six feet on center.

***Section Six - Solar Readiness.***

- A. No homeowners' agreement, covenant, common interest community, or other contract between multiple property owners within a subdivision shall restrict or limit solar energy systems to a greater extent than these regulations.
- B. In the event that renewable energy systems are not being implemented in a project, the city will encourage that the building design is "solar ready" such that solar electric, solar thermal systems, or both can be installed at a later date.
- C. The term "solar readiness" is not intended to apply to the orientation of streets or any other aspect of a construction project or subdivision other than the preparation of the structure(s) and the components thereof to facilitate the future conversion to solar energy use.

***Section Seven - Use for Advertising.***

- A. No part of a solar energy system shall be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials.

***Section Eight - Permit Requirements.***

- A. Building permits shall be required for all solar energy systems in the City.
- B. Zoning/building permit applications shall document compliance with these regulations and shall be accompanied by drawings showing the location of the system on the building or property, including property lines.
- C. The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this division.
- D. A roof mounted ASES may be located on a principal or accessory building.
- E. Roof mounted ASES may exceed the maximum building height specified for principal or accessory buildings within the applicable zoning district by no more than one foot.
- F. No part of the solar array or the supporting structure shall extend beyond any portion of the roof edge.
- G. Roof mounted solar panels on residential structures that are located on roof surfaces visible from the right-of-way of any street contiguous to the property shall be installed parallel to the respective roof surface.
- H. For roof mounted systems, the applicant shall provide evidence that the plans comply with the adopted building code of the City of Mathis and that the roof is capable of holding the load imposed on the structure by providing an engineer stamp of design and installation.
- I. For ASES roof applications, proof of submission for a windstorm insurance certificate is required at the time of permit application.

***Section Nine - Ground Mounted Accessory Solar Energy Systems.***

- A. Generally, ground mounted ASES will be required to adhere to the requirements of the Zoning Ordinance and Building Codes National Electrical Code, Mechanical Code and other applicable ordinances adopted by the City.

B. *Setbacks.*

1. The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setback applicable to the zoning district of such location of the ASES.
2. A ground mounted ASES shall not be located in any front yard except as permitted hereinafter in Section Eleven.

C. *Height.*

1. Freestanding ground mounted ASES shall not exceed the maximum accessory structure height in the underlying zoning district.

D. *Coverage.*

1. The area beneath the ground mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning district.
  - a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
  - b. All mechanical equipment of the system including any structure for batteries or storage cells.

- E. Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed or natural storm water conveyance system.

*Section Ten - Principal Solar Energy Systems (PSES)*

A. Ground mounted solar energy systems are permitted as principal uses by right in **Industrial** zoning districts, subject to the following:

1. Properties containing solar energy systems as principal uses shall contain a minimum of one acre.
2. All PSES permitted as principal uses shall comply with the side-yard and rear yard setbacks for accessory structures within the applicable zoning district. The front yard setback for principal use PSES shall be twenty feet.
3. No residential use or structure shall exist on the property.
4. The solar energy system must provide energy to off-site locations and to other than the owner of the property containing the solar array.
5. Solar energy systems permitted as principal uses shall comply with all other applicable regulations of this Ordinance, other applicable City Ordinances and Codes that apply to accessory solar energy systems.

6. All Energy Storage Systems must comply with NFPA Chapter 15, NFPA 855, Standard for the Installation of Energy Storage Systems.

***Section Eleven - Safety Requirements.***

**A. All Solar Energy Systems shall:**

1. Comply with the requirements of the State of Texas Utilities Code Chapter 39, section 39.916 (2011), to the extent such facility is interconnected to the retail electric supplier for net metering;
2. Include power outage protection so as to automatically terminate power generation during any power outage in any electrical utility system being served. Certification or documentation of such design shall be included with any permit approval.
3. Shall be of a type which provides a low glare or anti-reflective layer applied to the solar panel to reduce the reflection or glare of the system.
4. Shall be analyzed fully for land use and airport compatibility issues on a case-by-case basis that considers both the proposal and any potential safety hazard, most notably those associated with the City.

***Section Twelve - Discontinuance.***

**A. Notice of Discontinuance:**

1. In the event that all legally approved use of a solar energy system supporting structure or solar energy related equipment has been discontinued for a period of 180 days, the City Manager and/or designee may make a preliminary determination of discontinuance. In making such a determination, the City Manager and/or designee may request documentation and/or affidavits from the property owner regarding the structure's usage, including evidence that use of the structure is imminent. Failure on the part of a property owner to provide updated contact information for the owner of the solar energy system supporting structure or solar energy related equipment for one year will be presumptive evidence of discontinuance. At such time as the City Manager and/or designee reasonably determines that a solar energy system supporting structure or solar energy related equipment has been discontinued, the City Manager and/or designee will provide the property owner with a written notice of discontinuance by certified mail.

**B. Declaration of discontinuance:**

1. Failure on the part of the property owner to respond to the notice of discontinuance within 90 days, or to adequately demonstrate that the structure is not discontinued, will be evidence of discontinuance. Based on the foregoing, or on any other relevant evidence before the City Manager

and/or designee, the City Manager and/or designee may make a final determination of discontinuance, whereupon a declaration of discontinuance will be issued to the property owner by certified mail.

**C. Removal of facility:**

1. Within 120 days of a declaration of discontinuance, the property owner must either:
  - a. Reactivate the use of the structure as a solar energy system supporting structure or solar energy related equipment or transfer ownership of structure to another owner who will make such use of the facility; or
  - b. Dismantle and remove the facility. If the facility remains discontinued upon the expiration of 120 days, the property is declared a nuisance and the City of Mathis may enter upon the property and remove the facility, with all costs to be borne by the property owner.

**Section Thirteen - Permits-Not Transferable.**

- A. No permit issued under this Ordinance shall be transferable or assignable. |

**Section Fourteen - Permit-Issuance.**

- A. Within five working days of the receipt of a completed application for a permit under this Ordinance, the City Manager shall issue the requested permit or shall notify the applicant in writing of the denial of such permit and the reason for the denial.

**Section Fifteen - Permit-Denial or Revocation.**

- A. Any permit may be denied or revoked for any of the following causes:
- a. Fraud or misrepresentation contained in the application for the permit.
  - b. Fraud or misrepresentation made in the course of the carrying on of the permitted business.
  - c. Conduct of any business required to be permitted under this Ordinance in violation of any of the terms of this Ordinance or Zoning, Building and Codes of the City or any ordinance of the City of Mathis, Texas.
  - d. Activities or conduct in violation of any state statutes or federal laws governing the transaction or the product of the business required to be permitted by this Ordinance.
  - e. Notice of any such denial or revocation shall be given in writing setting forth specifically the grounds of such denial or revocation. Such notice shall be sufficient if personally

delivered or mailed, postage prepaid to the permittee at the business address on his application for said permit and shall be effective immediately upon personal delivery or on the second business day following the date of mailing of such notice.

***Section Sixteen - Permit Denial or Revocation-Appeal.***

- A. Any person aggrieved by the decision of the City Manager in regard to the denial of an application for a permit under this Ordinance or in connection with a revocation of a permit under this Ordinance shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the City Secretary within seven days after the effective date of the notice of the denial or revocation, a written statement setting forth the grounds for the appeal. A hearing before the City Council shall be scheduled within 21 days following the filing of the appeal. The decision of the City Council shall be final.

***Section Seventeen - General Regulations.***

- A. All persons permitted under the provisions of this Ordinance shall comply with the following rules and regulations which shall be conditions to the permit:
- a. No representation shall be made to any person that any permit issued under the provisions of this Ordinance in any manner constitutes an endorsement or approval by the City of a solar energy system or solar energy system support structure or solar energy system equipment or related products, goods, or services or of any particular person or business.
  - b. No false, fraudulent, or misrepresentation shall be made regarding any goods or services or business or person.
  - c. The permit issued under the provisions of this Ordinance shall be prominently displayed.

**Section 2. Violations**

Violation of any provision of this Ordinance shall constitute a Class C misdemeanor. Each violation of a separate provision and each day that a violation continues shall be a separate offense. Conviction of an offense under this Ordinance shall be punishable by a fine not to exceed the maximum established by law for each violation.

**Section 3. Invalidity**

It is the intent of the governing body that every word, phrase, sentence, clause and paragraph of this ordinance shall be considered separable and if any of which is judged to be invalid or unconstitutional by a court of competent jurisdiction, then all remaining words,

sentences, phrases, clauses and paragraphs will remain valid and in full effect as if originally enacted without the inclusion of such invalid or unconstitutional provision.

**Section 4. Conflicts**

Any provision of any previously enacted ordinance found to be in conflict herewith is expressly repealed to the extent that such conflict exists.

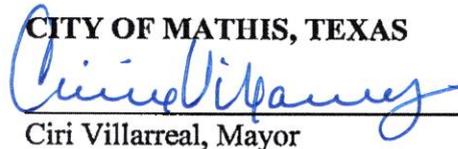
**Section 5. Effective Date**

This Ordinance shall take effect 15 days after the date of its passage and publication without any additional readings required, the public welfare requiring it to be so.

**First Reading:**

**PASSED and APPROVED** this 23<sup>rd</sup> day of October, 2023.

**CITY OF MATHIS, TEXAS**

  
Ciri Villarreal, Mayor

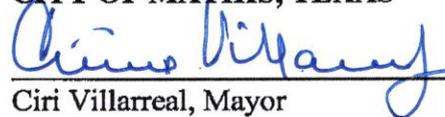
**ATTEST:**

  
Mary Gonzales, City Secretary

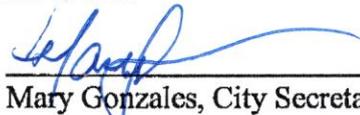
**Second Reading:**

**PASSED and APPROVED** this 13<sup>th</sup> day of November, 2023.

**CITY OF MATHIS, TEXAS**

  
Ciri Villarreal, Mayor

**ATTEST:**

  
Mary Gonzales, City Secretary



To: City Council

From: Michael Barrera, City Manager

Date: November 9, 2023

Re: **SECOND READING-AN ORDINANCE OF THE CITY OF MATHIS, TEXAS, AMENDING THE CODE OF ORDINANCES BY THE ADOPTION OF REGULATIONS FOR SOLAR ENERGY EQUIPMENT AND SYSTEMS; PROVIDING FOR A VIOLATIONS AND PENALTIES CLAUSE; A SAVINGS AND SEVERABILITY CLAUSE, REPEAL OF CONFLICTING ORDINANCES AND PROVISIONS, ESTABLISHING AN EFFECTIVE DATE AND PUBLICATION.**

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**Caption**

AN ORDINANCE OF THE CITY OF MATHIS, TEXAS, AMENDING THE CODE OF ORDINANCES BY THE ADOPTION OF REGULATIONS FOR SOLAR ENERGY EQUIPMENT AND SYSTEMS; PROVIDING FOR A VIOLATIONS AND PENALTIES CLAUSE; A SAVINGS AND SEVERABILITY CLAUSE, REPEAL OF CONFLICTING ORDINANCES AND PROVISIONS, ESTABLISHING AN EFFECTIVE DATE AND PUBLICATION.

**Purpose**

To approve the solar ordinance for the City of Mathis.

**Background**

Clean Footprint is the solar energy company that will build and operate the solar farm in Mathis. The attached ordinance provides definitions and uses for the various equipment common to the solar energy industry including those used for residential consumption and those used under industrial classifications. Over the past two to three years, electrical permits have been issued in the City for roof mounted and ground mounted systems that are used primarily for self-consumption. The proposed ordinance would solidify rules that have been imposed on these systems and provide authorization for future residential type systems. Additionally, the ordinance will provide guidance to Clean Footprint in their development and design of their facility.

Enclosed: Ordinance No. O-24-10-01