**ORDINANCE NO. 2024-06**

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, AMENDING THE TEXT OF THE CITY OF NEWBERRY LAND DEVELOPMENT REGULATIONS, AS AMENDED; TO AMEND SECTION 4.2.40 SOLAR ENERGY FACILITIES, RELATING TO ESTABLISHING STANDARDS FOR THE DEVELOPMENT OF SOLAR FARMS; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** Section 166.021, Florida Statutes, as amended, empowers the City Commission of the City of Newberry, Florida, hereinafter referred to as the City Commission, to prepare, adopt and enforce land development regulations;

**WHEREAS,** Sections 163.3161 through 163.3215, Florida Statutes, as amended, the Local Government Comprehensive Planning and Land Development Regulation Act, requires the City Commission to prepare and adopt regulations concerning the use of land and water to implement the Comprehensive Plan;

**WHEREAS,** an application for an amendment, as described below, has been filed by the City;

**WHEREAS,** the Planning and Zoning Board of the City of Newberry, Florida, hereinafter referred to as the Planning and Zoning Board, has been designated as the Local Planning Agency of the City of Newberry, Florida, hereinafter referred to as the Local Planning Agency;

**WHEREAS,** pursuant to Section 163.3174, Florida Statutes, as amended, and the City of Newberry Land Development Regulations, the Planning and Zoning Board, serving also as the Local Planning Agency, held the required public hearing, with public notice having been provided, on said application for an amendment, as described below, and at said public hearing, the Planning and Zoning Board, serving also as the Local Planning Agency, reviewed and considered all comments received during said public hearing concerning said application for an amendment, as described below, and recommended to the City Commission approval of said application for an amendment, as described below;

**WHEREAS,** pursuant to Section 166.041, Florida Statutes, as amended, the City Commission held the required public hearings, with public notice having been provided, on said application for an amendment, as described below, and at said public hearings, the City Commission reviewed and considered all comments received during said public hearings, including the recommendation of the Planning and Zoning Board, serving also as the Local Planning Agency, concerning said application for an amendment, as described below; and

**WHEREAS,** the City Commission, has determined and found that a need and justification exists for the approval of said application for amendment, as described below;

**WHEREAS,** the City Commission, has determined and found that approval of said application for an amendment, as described below, is consistent with purposes and objectives of the comprehensive planning program and the Comprehensive Plan;

**WHEREAS,** the City Commission has determined and found that approval of said application for an amendment, as described below, will further the purposes of the Land Development Regulations and other ordinances, regulations and actions designed to implement the Comprehensive Plan; and

**WHEREAS,** the City Commission has determined and found that approval of said application for an amendment, as described below, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF NEWBERRY, FLORIDA, THAT:**

**Section 1.**  Pursuant to an application, LDR 24-06, by the City Commission, the text of Sections 4.2.40 are hereby amended to read as follows: (words ~~struck through~~ have been deleted, and words in **underline and bold** have been added):

Section 2.1. - Definitions, general.

Insert:

*Solar energy facilities (Solar farm).* A production facility for electric power that utilizes photovoltaic modules (panels) to convert solar energy to electricity whereby the electricity that is produced is delivered to the transmission system and consumed off-site. Solar farms consist principally of photovoltaic modules, a mounting/racking system, power inverters, transformers, and associated components. Solar generation is generally the principal use of the property but solar farms may also include administration/maintenance buildings, transmission lines, substations, energy storage equipment and related accessory uses and structures.

*Solar energy system.* Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in the heating or cooling of a structure or building, the heating or pumping of water, or the generation of electricity. A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of the roof of a building or structure and serving as a window or wall. A solar energy system may be mounted on the building or on the ground and is not the principal use of the property.

Section 4.2. - Supplementary district regulations.

4.2.40. Solar energy facilities (Solar farms).

1. Permitted districts. Solar energy facilities (Solar farms), as defined in section 2.1., definitions, general, of these regulations, shall be allowed as a permitted use in all agricultural, industrial, Planned Development and Planned Rural Residential Development districts.

2. Permitted supporting facilities. Administrative buildings, control rooms/offices, storage and maintenance facilities, accessory equipment buildings, access roads, stormwater management facilities, substations, distribution and transmissions towers, parking, power lines and battery and similar solar energy systems are deemed to be permitted supporting facilities for solar farms.

3. Performance standards. Solar farms (and their permitted supporting facilities) shall be consistent with the following performance standards:

a. Provide no less than **twentyfive (25)** foot **setbacks** on all sides of the site except for ingress and egress corridors. **If natural vegetation is present in the setback area, it must be left undisturbed. Where the perimeter is adjacent to an existing residence, a twenty foot (20’) vegetative buffer shall be planted by the applicant within the setback area, such that the view of the solar facility from the residence is effectively obscured within five years. The vegetative buffer shall be planted with native species of trees and shrubs that will mature to full opacity within five (5) years of initial planting, and shall be maintained by the applicant until fully established. Setback** areas may contain access roads, barriers or security walls, fences, and crossings by linear facilities, **provided that any required vegetative buffers are maintained;**

b. Provide compensatory storage for development in the one hundred (100)-year floodplain consistent with local and state standards;

c. Connect to central sanitary sewer, if available, or provide onsite treatment for domestic wastewater. Septic tanks shall be allowed in accordance with applicable provisions of local and/or state regulations, including the Comprehensive Plan.

4. If supporting buildings are erected to support operation of the electrical generating facility, such buildings shall:

a. Occupy no more than five (5) percent of the total acreage of the site;

b. Provide sufficient parking spaces for permanent employees and operational business **activities;**

c. Be a maximum of 35 feet in height;

d. Provide a minimum front yard of 30 feet, a minimum side yard of 15 feet, and a minimum rear yard of 25 feet. No landscaping shall be required within the yard. One-half of the yard may be used for parking.

5. The following maximum height provisions shall apply:

a. Security fencing: 8 feet,

b. Project signs 9 feet,

c. Solar panels or modules: 15 feet,

d. Transmission lines or substations: None.

6. A minimum 20-ft. wide, clear access way with a 12-ft. wide, stabilized access path shall be permitted for access, maintenance and operation of solar facilities and transmission lines.

7. A minimum 20-ft. wide, stabilized access path shall be permitted for access, maintenance and operation of administration buildings, accessory buildings and substations.

8. Site and development plans review procedures for solar farms:

a. Site and development plans shall be submitted in accordance with Sec. 14.12.1.

b. Five (5) sets of data required for site and development plan approval shall be submitted to the Land Development Regulation Administrator together with the payment an application fee established by the City.

c. The Land Development Regulation Administrator shall circulate the plans to any other city official or department which may have responsibility for some aspect of the site and development plan.

d. A site and development plan for a solar farm consistent with all the standards outlined in this section and all other applicable LDR requirements shall be approved, approved with conditions, or denied by the Land Development Regulation Administrator within 30 days of receipt of the initial application. Site and development plans for a solar farm that require a variance or modification to the standards outlined in this section or any other applicable LDR section shall be approved, approved with conditions, or denied in accordance with the process outlined in LDR Section 14.12.

**Section 2.** **Severability**. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

**Section 3**. **Conflict.**  All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This ordinance shall become effective upon adoption. The effective date of this plan amendment shall be the date a final order is issued by the Department of Economic Opportunity or Administration Commission finding the amendment in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity, Division of Community Development, 107 East Madison Street, Caldwell Building, Tallahassee, FL 32399-4120.

**Section 5. Authority.**  This ordinance is adopted pursuant to the authority granted by Section 166.021, Florida Statutes, and Sections 163.3161 through 163.3215, Florida Statutes.

**DONE THE FIRST READING,** by the City Commission of the City of Newberry, Florida, at a regular meeting, this \_26th\_\_\_ day of February , 2024.

**DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City of Newberry, Florida, by the City Clerk of the City of Newberry, Florida on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2024.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE, by an DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Newberry, Florida, at a regular meeting, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 2024.

BY THE MAYOR OF THE CITY OF NEWBERRY, FLORIDA

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Honorable Jordan Marlowe, Mayor

ATTEST, BY THE CLERK OF THE

CITY COMMISSION OF THE CITY OF

NEWBERRY, FLORIDA:

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Judy S. Rice, City Clerk

APPROVED AS TO FORM AND

LEGALITY:

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City Attorney’s Office