

B.O.C.C. 08/02/2018

**LDCT-18-01/ORDINANCE 18-18 - LAND DEVELOPMENT CODE TEXT AMENDMENT /
ECOPLEXUS, INC. – ALTERNATIVE ENERGY GENERATION FACILITIES**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 2, DEFINITIONS TO PROVIDE DEFINITIONS FOR “ALTERNATIVE ENERGY GENERATION FACILITY”, “LOW-TEMPERATURE SOLAR THERMAL POWER”, “PHOTOVOLTAIC (PV) SOLAR POWER”, “SOLAR ARRAY” AND “SOLAR FIELDS” AND TO AMEND DEFINITIONS FOR “UTILITY USE” AND “UTILITY USE, HEAVY”; AMENDING CHAPTER 4, ZONING BY ADDING “ALTERNATIVE ENERGY GENERATION FACILITY” AS A USE IN SPECIFIED ZONING DISTRICTS IN SECTION 401.2, SCHEDULE OF USES TABLE 4-1 - USES IN AGRICULTURE AND RESIDENTIAL DISTRICTS, TABLE 4-2 - USES IN NON-RESIDENTIAL DISTRICTS, AND SECTION 402.5 SCHEDULE OF USES FOR PD DISTRICT TABLE 4-9 - SCHEDULE OF USES FOR PLANNED DEVELOPMENT (PD) DISTRICTS; AMENDING CHAPTER 5 – PART IV - STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES, SECTION 531.54 – UTILITY USES TO PROVIDE STANDARDS FOR ALTERNATIVE ENERGY GENERATION FACILITY; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

P.C.: 06/14/2018

B.O.C.C.: 08/02/2018 and 08/23/2018

No action necessary; this is the first of two required public hearings. The second hearing is scheduled for August 23, 2018.

PLANNING COMMISSION ACTION:

On June 14, 2018, by a vote of 6 – 0, the Planning Commission recommended approval. One Planning Commission seat was vacant.

PUBLIC COMMENT AND CORRESPONDENCE:

June 14, 2018 Planning Commission.

There was no public comment.

A revised motion was entered into the record.

SUMMARY/BACKGROUND:

Plan Amendment 18-02/Ordinance 18-17 was privately-initiated by Ecoplexus, Inc. and was approved by the Board on June 7, 2018. The revisions to the Comprehensive Plan included providing clarity on which future land use categories would be appropriate for the *alternative energy generation facility use*. The previous regulations place solar arrays and other alternative energy sources in the same classification as traditional coal, oil, and gas-fired power generation facilities thereby requiring them to be located in the P/SP(1) future land use category which requires PDPI zoning. The Plan Amendment concluded that *Alternative Energy Generation Facilities* were not the same type of use as traditional power generation facilities. The Plan Amendment added definitions for alternative energy generation facilities, utility use, and utility use, heavy; amended Future Land Use Policy 2.1.1.5. and added Conservation Goal 3.5 and Objective 3.5.1.

The Land Development Code (LDC) is the implementation tool for the Comprehensive Plan. Consequently, revisions to the LDC are necessary to implement the recently approved Ecoplexus, Inc. Plan Amendment. The proposed LDC revisions are:

- Add specific definitions for *Alternative Energy Generation Facility, Low-Temperature Thermal Power, Photovoltaic (PV) Solar Power, Solar Array and Solar Field* and to revise the existing definitions for *Utility Use* and *Utility Use, Heavy*.
- Include *Alternative Energy Generation Facility* as a Permitted (P) use in Tables 4-1, 4-2, and 4-9.
- Update LDC Section 531.54 – Utility Uses to more clearly define *Utility Uses* as light or heavy and to provide specific criteria for an *Alternative Energy Generation Facility*.

CHAPTER 2 – DEFINITIONS

1. Amend LDC Section 200 – Definitions to include the following:

Alternative Energy Generation Facility shall mean a facility that utilizes Photovoltaic Solar Power to generate electricity. This facility may also have other equipment that is directly involved in the storage and transmission of electricity.

Low-Temperature Solar Thermal Power shall mean the technology that utilizes solar thermal collectors to absorb the heat from the sun's rays and transfer it to a heat transfer fluid, such as air, water or antifreeze, which in turn transports it to the area to be heated.

Photovoltaic (PV) Solar Power shall mean the technology that uses photovoltaic cells to harness radiant energy from the sun and create electricity. These cells are often packaged into panels that can be mounted on a rack system, placed on rooftops, or incorporated into other building materials such as roofing materials, facades, and glass. Rack mounted PV systems typically consist of a large array of solar panels which are mounted to support structures which are physically secured in the ground.

Solar Array. (See Alternative Energy Generation Facility)

Solar Field. (See Alternative Energy Generation Facility)

2. Amend LDC Section 200 – Definitions to revise the following:

Utility Use shall mean any of the following uses:

- A. Electric substations or distribution centers including transformer stations.
- B. Alternative Energy Generation Facility.
- C. Natural gas, oil or other petroleum product metering, regulating, compressor, control or distribution stations, and local office space incidental thereto and necessary for the operation of such station, but shall not include any storage facilities.
- ~~C. Major sewage pumping facilities.~~
- D. Telecommunication facilities, including but not limited to exchanges, dial centers, or repeater stations. Telecommunication towers and antennas are not included in the definition of "Utility Use".
- ~~E. Major potable water storage, control, or pumping facilities.~~
- ~~F.~~E. Service or supply yards for any of the above uses, where such yards are less than one (1) acre in area.
- ~~F.~~G. Wastewater Treatment Plants

Utility Use, Heavy shall include: ~~but is not limited to,~~

- A. Power generating facilities, including Low Temperature Thermal, operating at a threshold above that specified in Section 403.506, Florida Statutes, as may be amended.
- ~~B. Major electrical transmission corridors. Multiple transmission line facilities.~~
- C. Major sewage pumping facilities.
- D. Major potable water storage, control, or pumping facilities.
- E. Wastewater treatment plants.
- F. Water treatment plants.
- G. Major maintenance facilities.
- H. Solid waste transfer stations.

PROPOSED REVISIONS TO CHAPTER 4 – ZONING

LDC REVISIONS

Alternative Energy Generation Facility will be added as a subset to *Utility, Use*. The rationale for the zoning districts that have been identified as appropriate is based on the existing zoning districts that *Utility Uses* are permitted as either an Administrative Permit (AP) or as a Special Permit (SP). As noted in Tables 4-1, 4-2 and 4-9, the appropriate zoning districts are more restrictive for the *Alternative Energy Generation Facility* than other utility uses. The Specific Use requirements for the *Alternative Energy Generation Facility* use are included in the "Proposed Revisions to Chapter 5" portion of this Staff Report.

Table 4.1 – Uses in Agriculture and Residential Districts									
Land Use	See Sec.#	CON	A	A-1	RSF	RSMH	RDD	RMF	VIL
Utility Use	531.54	SP	AP	AP	AP	AP	AP	AP	AP
• <u>Alternative Energy Generation Facility</u>	<u>531.54</u>	X	P	X	X	X	X	X	X
<u>Utility Use, Heavy</u>	<u>531.54</u>	X	X	X	X	X	X	X	X

“X” = Not Permitted

“P” = Permitted (meeting LDC Section 531.54)

“AP” = Administrative Permit (meeting LDC Section 531.54)

“SP” = Special Permit (meeting LDC Section 531.54)

Table 4-2: Uses in Non-Residential Districts										
Land Use	See Sec.#	PR	NC	GC	HC	RVP	LM	HM	EX	MP-1
Utility Use	531.54	AP	AP	AP	AP	AP	AP	AP	AP	X
• <u>Alternative Energy Generation Facility</u>	<u>531.54</u>	X	X	X	X	X	P	P	X	X
<u>Utility Use, Heavy</u>	<u>531.54</u>	X	X	X	X	X	X	X	X	X

“X” = Not Permitted

“P” = Permitted (meeting LDC Section 531.54)

“AP” = Administrative Permit (meeting LDC Section 531.54)

“SP” = Special Permit (meeting LDC Section 531.54)

Table 4-9: Schedule of Uses for PD Districts														
Land Use	See Sec. #	PDR	PDO	PDC	PD RP	PDI	PD PI	PDW	PD MU	PD RV	PD MH	PD GC	PDA	PD EZ
Utility Use	531.54	SP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP/SP	AP	P
• <u>Alternative Energy Generation Facility</u>	<u>531.54</u>	X	X	X	X	P	P	X	X	X	X	X	X	P
<u>Utility Use, Heavy</u>	<u>531.54</u>	X	X	X	X	X	P	X	X	X	X	X	X	X

“X” = Not Permitted

“P” = Permitted (meeting LDC Section 531.54)

“AP” = Administrative Permit (meeting LDC Section 531.54)

“SP” = Special Permit (meeting LDC Section 531.54)

PROPOSED REVISIONS TO CHAPTER 5 – STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES

DISCUSSION

The existing LDC Section 531.54 Utility Use has been modified to incorporate *Alternative Energy Generation Facilities* requirements as well as doing some clean-up to the existing language.

LDC REVISIONS

531.54. Utility Uses.

- A. Location.** Utility uses shall only be allowed where necessary to render efficient service to an area. Wastewater treatment facilities are prohibited in the CON district.
- B. Heavy Utility Uses ~~Require Rezone to MP-1.~~** Utility uses which have adverse visual, health, safety, or welfare impacts on adjacent property or residents are defined as Heavy Utility Uses within this Code. ~~including but not limited to permanent water and wastewater treatment/storage/disposal facilities; major maintenance facilities; solid waste transfer stations, and major electrical transmission corridors,~~ Heavy Utility Uses are ~~can~~ only permitted ~~be allowed~~ within the P/SP(1) future land use category and require a PDPI zoning rezone to MP-1. ~~The Department Director shall determine what constitutes a Heavy Utility Use requiring such procedures.~~
- ~~**C. Application Requirements.** Applications for public utilities uses within private or public property shall be submitted to the Department Director for approval. Water and Wastewater Treatment facilities require Board of County Commissioners approval after holding a Public Meeting to review the proposed location.~~
- ~~1. **Submittal Requirements.** The application for utility use approval shall include the following:~~
- ~~a. A certified copy of the law, code, resolution or other official act adopted by Manatee County authorizing the establishment of the proposed use.~~
 - ~~b. A statement by an official or officer of the utility company shall be submitted giving the exact reasons for selecting the particular site as the proposed location for the utility use.~~
 - ~~c. A map shall be furnished showing the utility system, of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed use to the utility system.~~
- ~~2. **Review Criteria.** The application shall meet the following criteria.~~
- ~~a. If the proposed location of any public utilities use is in a Residential or Neighborhood Commercial district, the decision making body shall find that there is no alternative site available for such use in a Commercial or Industrial district within five hundred (500) feet of the proposed location.~~

~~b.. For the following utilities uses, the decision making body shall find that there is no alternative site available in a non-residential district within a distance of one (1) mile, unless there is a substantial showing that satisfactory service cannot be rendered from an available location in such Commercial or Industrial district: Electric Substations and Distribution Centers; and Service and Supply Yards.~~

~~3. Exemptions. Any public utilities or facilities specifically approved in accordance with the standards of this Section in connection with another application for development approval shall not be required to obtain a separate development approval.~~

D.C. Standards for All Utility Uses.

1. Utilities and facilities, other than buildings, shall not be required to comply with the dimensional development standards of the zoning district, as specified in Chapter 4.
2. No land or building in any district other than "HM" (Heavy Manufacturing), "LM" (Light Manufacturing), "HC" (Heavy Commercial), or "A" (General Agricultural) shall be used for the outside storage of materials or equipment, or for the repair or servicing of vehicles or equipment, or for the parking of vehicles except those needed by employees connected with the operation of the immediate facility. However, utility service and supply yards not exceeding one (1) acre may be allowed in other districts upon showing of a demonstrated need.
3. In all zoning districts except the LM, HM, HC, and A districts, all equipment, machinery and facilities not located within an enclosed building shall be adequately screened in accordance with the requirements of Section 701, Landscaping.
- ~~4. Exemptions. Any public or private utilities or facilities specifically approved in accordance with the standards of this Section in connection with another application for development approval shall not be required to obtain a separate development approval.~~
- ~~4-5.~~ 5. See Section 531.530 for specific standards applicable to Solid Waste Management Facilities.

D. Rack-Mounted Alternative Energy Generation Facility

- ~~1. Location. Facilities shall be located in agricultural, industrial, and/or Planned Development zoning districts pursuant to Chapter 4. However, such facilities shall not be located within the Historical and Archaeological Overlay District, the Historic Vista Protection Overlay District, or the Coastal High Hazard Overlay District as defined in this Code.~~
- ~~2. Facilities may be enclosed with a security fence with a minimum height of six feet to discourage unauthorized entry. The fence location and maximum height shall comply with the requirements of this Code. Clearly visible warning signs shall be placed on the fence and/or site perimeter, if applicable.~~
- ~~3. Existing vegetation shall be preserved to the maximum extent possible. Where unique natural features provide vegetative screening, which meets or exceeds~~

the standards required in this Section, the Department Director may approve an alternative landscape and screening plan.

4. Height. Installed solar panels shall have a maximum height of 15-feet as measured when the panels are tilted to the design degree that creates the greatest overall height. All other structures shall conform with the principal or accessory structure height requirements of this Code.
5. For purposes of calculating the open space requirements, the area of the solar panels and transmission lines shall be considered open space if the ground beneath the panel remains pervious.
6. Alternative Energy Generation Facilities are exempt from the Special Approval provisions of the Manatee County Comprehensive Plan and this Code.
7. For purposes of this use, the term “adjacent” shall not include a use or zoning that is located on the opposite side of an arterial or collector roadway.

E. Standards for Rack-Mounted Alternative Energy Generation Facility in the Agricultural Zoning District (A):

1. Setbacks. From any property line, adjacent to residentially used or zoned property, a minimum setback of fifty (50) feet is required.

From any property line adjacent to non-residential uses or zoning, the minimum setbacks for the “A” zoning district as shown in Table 4-4 shall apply.

These setbacks shall apply to all solar panels and other above-ground structures excluding transmission line poles.

2. Roadway Buffer. If adjacent to a public right-of-way, the minimum buffer width shall be 10-feet and the plantings shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.
3. Screening. For screening purposes, this use is classified as “Community Service Uses” (refer to Table 7-4 Buffer Screening Matrix; Width of Buffer Required [In Feet]). ~~If adjacent to residentially used or zoned parcels or public rights-of-way,~~ screening shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.

F. Standards for Rack-Mounted Alternative Energy Generation Facility in Industrial (LM or HM) or Planned Development Zoning Districts (PDPI, PDI, PDEZ)

1. Setbacks. The solar panels shall meet the minimum setbacks established in Table 4-4 for the applicable zoning district. For Planned Development District zoning, the setbacks established in the Zoning Ordinance shall apply.

These setbacks shall apply to all solar panels and other above-ground structures excluding transmission line poles.

2. Roadway Buffer. If adjacent to a public right-of-way, the minimum buffer width shall be 10-feet and the plantings shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.

3. Screening. For screening purposes, this use is “Community Service Uses” (refer to Table 7-4: Buffer Screening Matrix; Width of Buffer Required [In Feet]). The screening plants shall be comprised of 2-1/2 native palms and 33 native shrubs per 100 linear feet. The shrubs shall be twenty-four inches in height at the time of planting. The palms shall be fifteen feet in height or the height of the solar panels whichever is less.

CONSISTENCY WITH THE MANATEE COUNTY COMPREHENSIVE PLAN:

The Land Development Code is enacted pursuant to Section 163.3202 of the Florida Statutes and its purpose is to implement the Comprehensive Plan of the County by establishing regulations, procedures, and standards for review and approval of all development and use of land in the unincorporated portions of the County. It is stated in Chapter 1 of the LDC that “*the Code is adopted in order to foster and preserve public health, safety, comfort, and welfare in the unincorporated areas of the County.*” Further, it is the intent of the Code that the development process in Manatee County be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and the consideration of the interests of the citizens of the County.

The following Goals, Objectives, and Policies were added to the Comprehensive Plan as part of the Alternative Energy Generation Facility Plan Amendment and are applicable to this Land Development Code Text Amendment:

FUTURE LAND USE ELEMENT

Policy 2.1.1.5. Ensure the availability of sufficient land area for the location of appropriately sited public and private utility facilities. Consider amendments to the Future Land Use Map to the P/SP (1) category to allow development of major public or semi-public uses (e.g., electrical generation facilities operating at a threshold above that as specified in Section 403.506, Florida Statutes, as may be amended; electrical transmission lines equal to or greater than 240KV) in appropriate areas when compatible with surrounding development. Encourage the development and use of local renewable energy resources and alternative energy generation facilities.

CONSERVATION ELEMENT

Goal 3.5 – Promote the development and use of alternative energy generation facilities.

Objective 3.5.1. Alternative Energy Generating Facilities. – Promote the development of efficient and environmentally sound energy generation facilities and minimize the adverse environmental impacts from coal, oil, and natural gas based power generation facilities.

Implementation Mechanism:

- (a) Adopt Land Development Regulations to provide a permitting process for the approval and development of renewable and alternative energy generation facilities.

Manatee County has reviewed the proposed changes to the LDC to ensure the purpose and intent stated in the Code (and above) will continue to be met.

ATTACHMENTS:

1. **Newspaper Advertising**
2. **APA PAS Report 575**
3. **Ordinance 18-18**