

## TITLE

This ordinance shall be known as the Renewable Energy Ordinance for the Town of Bluff.

### I. PURPOSE

1. The purpose of this ordinance is to provide for the siting, development, and decommissioning of renewable energy projects in the Town of Bluff subject to reasonable conditions, that protect the public health, safety and welfare of the community while promoting development of renewable energy resources.
2. Solar, wind and geothermal energy projects provide renewable energy and valuable economic resources that can be utilized throughout Bluff for the following purposes:
  1. In alignment with the general plan, support renewable energy development that would provide economic opportunities to residents and be compatible with Town goals including environmental sustainability such as water conservation and preservation of open space.
  2. Encourage renewable energy projects on public and state land while balancing preservation of aesthetic values.
  3. Allow for and encourage underground utility lines.

### II. DEFINITIONS

1. "Agriculture" means the science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products.
2. "Agrivoltaics": means agricultural use on sites of renewable energy projects including grazing and growing crops.
3. "Applicant" means the person or entity who submits an application to the locality for a permit to install a renewable energy project under this ordinance.
4. "Battery Energy Storage System (BESS)" means an advanced technological solution that stores energy in rechargeable batteries for later use.
5. "Car Port Solar" means a ground mounted system and must adhere to the definition henceforth and standards of each zone
6. "Disturbance Zone" means the area within the site directly impacted by construction and operation of the renewable energy project.
7. "Footprint" means the area of a lot occupied by a structure, measured horizontally.
8. "Geothermal" means the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.
9. "Glare Study" means a study conducted by an Engineer for Solar Projects
10. "Grid-connected solar energy system" means a solar photovoltaic system that is connected to an electric circuit served by an electric utility company
11. "Ground-mounted solar energy system (Accessory Use)" means a solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and the system is accessory to the primary use.
12. "Ground-mounted solar energy system (Primary Use)" means a solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and is the primary land use for the parcel(s) on which it is located. Primary use systems are permitted through a discretionary approval process.

13. "Integrated PV" means photovoltaics incorporated into building materials, such as shingles.
14. "Landowner" means an individual, group, or organization who holds the legal property rights to the piece of land or real estate on which the energy project will be built.
15. "Lessee" means a person who acquires the right to possession of land or and use of goods under a lease.
16. "Level 0 Project" means the footprint of the project is less than 2 acres.
17. "Level 1 Project" means the footprint of the project is between 2 and 4 acres.
18. "Level 2 Project" means the footprint of the project is between 4 and 20 acres.
19. "Level 3 Project" means the footprint of the project is greater than 20 acres.
20. "Operator" means the person responsible for the overall operation and management of a renewable energy project.
21. "Owner" means the person who owns all or a portion of a renewable energy project.
22. "Photovoltaic" or "PV" means materials and devices that absorb sunlight and convert it directly into electricity.
23. "Project" means any presentation of renewable energy design including wind, solar, geothermal or other. Specifications dictate zoning and size.
24. "Rated capacity" means the maximum capacity of a solar energy project based on the sum total of each photovoltaic system's nameplate capacity.
25. "Renewable Energy" means solar, wind, and geothermal energies and future considerations of power generation
26. "Residential solar-powered lights" means self-contained lighting fixtures that harness sunlight to provide illumination for homes and surrounding outdoor spaces.
27. "Roof mounted solar" means a solar photovoltaic system mounted on a rack that is ballasted on, or is attached to, the roof of a building or structure. Roof-mount systems are accessory to the primary use.
28. "Site" means the area containing a renewable energy project.
29. Size:
  1. Community Solar means a project providing energy for multiple residential, commercial or agricultural plots. Small utility scale projects provide energy to be sold in a unique business model.
  2. Small Wind Turbines: These turbines are designed for low-demand applications, such as homes, farms, or small businesses. They typically have a power capacity of less than 100 kW.
  3. Large Wind Turbines: have high power capacity and are used in utility-scale wind farms. They typically range from 100 kW to 10 MW (or even higher).
  4. "Solar Energy Project, [larger-scale]," "Solar Energy Project," or "Project" means a renewable energy project that either (a) generates electricity from sunlight, consisting of one or more PV systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce mechanical power by means of any combination of

collecting, transferring, or converting solar-generated energy, And does not meet any of the following criteria: has a disturbance zone equal to or less than [two acres], is mounted on or over a building or parking lot or other previously disturbed area, or utilizes integrated PV only.

5. Utility Scale means a large array with hundreds of panels owned by a utility, municipality or corporation
30. "Solar energy system" means a device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.
31. "Solar photovoltaic system" A solar energy system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring.
32. "Water turbine" means a water turbine is a rotary machine that converts kinetic energy and potential energy of water into mechanical work.

### III. PERMITTING

1. The following table outlines which renewable energy projects are permitted by right and which are subject to Conditional Use approval.

<b>Table I: Permitted Uses</b>						
<b>Project Type</b>	<b>A1</b>	<b>A2</b>	<b>A3</b>	<b>R</b>	<b>C</b>	<b>FI</b>
Level 0 [<2 acres]	P	P	P	P	P	P
Level 1 [2 acres to 4 acres]	C	C	C	C	P	P
Level 2 [4 acres to 20 acres]	C	C	C	Prohibited	P	P
Level 3 [>20 acres]	Prohibited	C	Prohibited	Prohibited	P	P
BESS	C	C	C	C	C	C
P= Permitted by Right			C= Requires Conditional Use Permit - Public Hearing Required – may require site specific studies (example: Glare Study, Flicker Study, etc.)			

<b>Project Type</b>	<b>Building Permit</b>	<b>Site Plan Required</b>
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	Required	
Level 0 - Ground Mounted solar	Y	N
Level 0 - Rooftop solar	Y	N
Level 0 - Rooftop Mounted Wind	Y	N
Level 0 - Wind	Y	N
Level 0 - Geothermal	Y	N
Level 1 [>2 to 4 acres]	Y	Y
Level 2 [>4 acres to 20 acres]	Y	Y
Level 3 [>20 acres]	Y	Y
Y= Yes		
N = No		

#### IV. SUBMITTAL REQUIREMENTS AND PROCEDURES

1. All applications for energy development must meet federal and state requirements and be submitted according to universally accepted standards. Bluff Building Department maintains authority to determine if the application is complete.
2. Projects permitted by right require an application that shall include the following information:
  1. Building Permit
  2. Site Plan
3. Exceptions: Waived in Table II.
4. Projects subject to Conditional Use approval require an application that shall include the following information:
  1. PROJECT DESCRIPTION A narrative identifying the applicant, land owner, owner and/or operator, and describing the proposed renewable energy project, including an overview of the project and its location; approximate rated capacity of the renewable energy project; the approximate number, representative types and expected footprint of solar equipment to be constructed; and a description of ancillary facilities, if applicable.

2. SITE PLAN The site plan shall conform to the preparation and submittal requirements of [local site plan citation], including supplemental plans and submissions, and may include the following information:
    - a) Property lines and setback lines.
    - b) Existing and proposed buildings and structures, including preliminary location(s) of the proposed solar equipment.
    - c) Existing and proposed access roads, drives, turnout locations, and parking; however, this requirement shall not exceed UDOT requirements for other types of projects in the underlying zoning district.
    - d) Location of substations, electrical cabling from the solar systems to the substations, ancillary equipment, buildings, and structures (including those within any applicable setbacks).
    - e) Fencing or other methods of ensuring public safety.
  3. Additional information may be required, as determined by the Planning and Zoning Commission or Building Department to address concerns about site-specific challenges.
- V. DOCUMENTATION OF RIGHT TO USE PROPERTY FOR THE PROPOSED PROJECT
- Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.
1. DECOMMISSIONING PLAN - The application shall include a decommissioning plan and other documents required by the Decommissioning section of this ordinance.
  2. LIABILITY INSURANCE - The applicant shall provide proof of adequate liability insurance for a larger-scale renewable energy project prior to issuance of a zoning or building permit [or prior to beginning construction].
- VI. LOCATION, APPEARANCE, AND OPERATION OF A PROJECT SITE *FOR ALL TYPES*
1. SIGNAGE - Warning signage shall be placed on renewable energy equipment to the extent appropriate. Renewable energy equipment shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the renewable energy project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on renewable energy equipment except as follows: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger. Educational signs providing information about the project and benefits of renewable energy may be allowed as provided in the local sign ordinance.
  2. NOISE - Noise requirements for renewable energy projects shall be no more stringent than noise requirements for other types of development in the underlying zoning district.

3. SAFETY - All projects must meet existing safety controls from building, fire and health codes, including:
  1. Project mounted ladders for wind turbines must begin at least 12 ft from the ground.
  2. BESS projects must comply with NFPA 855.
4. SETBACKS - Renewable energy equipment shall be set back in compliance with the setback requirements for other types of development in the zoning district.
  1. Turbine blades shall not extend into setbacks.
5. AGRIVOLTAICS - Where applicable, the project shall be encouraged to add or continue agricultural use of the site.
6. VEGETATION – Native seeding and developing pollinator habitat is encouraged when revegetating an area disturbed for a renewable energy project.
7. UNDERGROUND UTILITY LINES - Where appropriate, are encouraged.

## VII. DECOMMISSIONING

1. DECOMMISSIONING PLAN - As part of the project application, the applicant shall submit a decommissioning plan, which may include the following: (1) the anticipated life of the project; (2) the estimated decommissioning cost in current dollars; (3) how said estimate was determined; and (4) the manner in which the project will be decommissioned.
2. UNSAFE OR ABANDONED PROJECTS
  1. If a renewable energy project has been determined to be unsafe by the Town of Bluff Building Official, the Renewable Energy Project shall be required to be repaired by the owner or operator to meet federal, state and local safety standards, or be removed by the owner or operator within the time period allowed by the Town of Bluff Building Code Official.
  2. When the owner or other responsible party decommissions a renewable energy Project, they shall handle and dispose of the equipment and other project components in conformance with state and local requirements.
  3. At such time that a renewable energy project is scheduled to be abandoned, the owner or operator shall notify the Town of Bluff.
  4. Within 365 days of the date of abandonment, the owner or operator shall complete the physical removal of the renewable energy project, if requested by the Town of Bluff. This period may be extended at the request of the owner or operator, upon approval of the Town of Bluff.
  5. For Level 3 projects, the Town of Bluff may require reliable methods of secured funding sources (Performance bond, etc) to ensure that performance obligations under the local government approvals are satisfied, up to and including the costs for decommissioning.

## VIII. ALLOWANCES:

1. Downward facing solar-powered lights used for lighting outdoor paths and patios are exempt from this ordinance
2. Flat Roof - On a flat roof, solar energy systems are permitted to exceed the zoning district height limits by up to 10 feet.

3. Sloped Roof -On a pitched/sloped roof, solar energy systems shall be installed parallel to the roof surface and may not extend beyond the edge of the roof peak.
4. Ground-mounted solar energy systems are exempt from lot coverage and impervious surface requirements if the area under the system contains vegetative ground cover.

#### IX. CONDITIONAL USE

1. For the purposes of this ordinance, if necessary, the Planning and Zoning commission shall determine specific conditions that may be applied to the renewable energy project to address the compatibility with standards of: safety of people and property, environmental concerns, aesthetics, and decommissioning. Conditions may include the following but are not limited to:
  1. Additional study or testing to meet requirements of the specific site such as glare or flicker testing within the Airport Overlay Zone and geological hazard study
  2. Height or density limits
  3. Site screening
  4. Setback adjustments for adequate access to sun or wind
  5. Flood mitigation
2. All conditions must be met for any permits or licenses to be granted. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.
3. Conditional uses run with the land.
4. The Conditional Use Permit shall expire by operation of law without any action by the Town unless construction or the use itself begins within one year of issuance. Construction must be complete within two years.

#### X. ENFORCEMENT.

1. Any proceedings on the project shall stop until rectified. If steps towards achieving compliance do not result in a cure to the violation(s), the Town may:
  1. Revoke a permit or Conditional Use Permit upon a finding that the holder of the permit has failed to comply with any of the conditions imposed at the time the permit was issued;
  2. Withhold certificates of occupancy and business licenses;
  3. Obtain an injunction to halt or abate violations of this Title;
  4. Recover a civil penalty;
  5. Commence an action for damages—including damages for costs incurred in abating violations; and/or
  6. Any other remedies available at law or equity.
2. The Town may combine remedies at its discretion and pursue some or all at different times, as may fit the circumstances.
3. Prior to invoking any judicial remedies, the Town shall provide written notice to the property owner identifying the violation(s) and allowing a period of not less than thirty (30) days, in which to cure or abate the violation. The notice shall be sent by First Class United States Mail, addressed to the property owner, as stated in the permit application, or as otherwise specified in applicable land records.
4. To obtain injunctive relief the Town need only prove a violation of this Title; it shall not be required to post a bond as a condition for obtaining injunctive relief.
5. In any civil judicial action under this Title the Town may recover its reasonable attorney fees and court costs, in addition to any other relief.