

PERSON COUNTY SOLAR ENERGY SYSTEM ORDINANCE

Adopted by the Person County Board of Commissioners on the 5th Day of October, 2020.

Amended on the 7th day of February 2022.

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ARTICLE 1. GENERAL PROVISIONS

1.1 Title

- a) This document shall be known and cited as “Person County Solar Energy System Ordinance”.

1.2 Purpose

- a) The purpose of this ordinance is to facilitate the construction, installation, and operation of solar energy systems (SES) in Person County in a manner that promotes economic development, preserves the dignity and aesthetics of the environment in Person County, and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands. This ordinance is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state, or federal law.

1.3 Authority and Grant of Power

- a) This ordinance is adopted under the authority and provisions of the General Statute of North Carolina, Chapter 153A Article 18. Nothing herein shall be interpreted to conflict with or supersede any provision of the General Statute of North Carolina Chapter 153A.

1.4 Jurisdiction and Applicability

- a) The regulations contained herein shall govern development of land within Person County, North Carolina as provided in General Statute 153A, Article 18, except those lands lying within jurisdiction of any municipality, unless such municipality shall have by resolution requesting the County enforce these regulations within the municipality’s area of jurisdiction.
- b) Solar energy systems established prior to the effective date of this ordinance shall remain exempt except if major modifications to an existing solar energy systems are proposed and require a new Special Use Permit to be issued by the Board of Commissioners. The modified area of the SES permitted under the new Special Use Permit shall be subject to the conditions of this ordinance. Maintenance and repair are not subject to this ordinance.

1.5 Definitions

- a) Abandonment: Any solar energy system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned.
- b) Accessory Equipment: Any equipment serving or being used in conjunction with a solar energy system. The term includes utility or transmission equipment, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters, or similar structures.
- c) Decommissioning Plan: A document that details the planned shut down and removal of a solar energy system from operation or use.
- d) Major Modification: Any change which would require findings of fact or evidence in addition to those in the record of the public hearing for the original Special Use Permit, or subsequent modifications, if any. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:
 - 1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Significant change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;
 - 2. A change in the use approved;
 - 3. Significant changes in the location of principal and/or accessory structures and/or uses;
 - 4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown in the plan;
 - 5. Significant changes in pedestrian or vehicular access or circulation
 - 6. Significant changes in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.
- e) Property Owner: The person(s), entity, or company having fee simple ownership of the property where the solar energy system is located.
- f) Solar Array: An active solar energy system that converts sunlight into electricity using either Thermal or photovoltaic methods. Such a system has multiple solar collectors, and might include transformers, generators, batteries, and other appurtenant structures and/or facilities.
- g) Solar Collector or Solar Panel: A device that converts sunlight into electricity using either thermal or photovoltaic methods.
- h) Solar Energy System: The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. Area restrictions are based on the acreage

of panels. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

1. Level 1 Solar Energy System (SES) – Includes the following in all Person County Zoning Districts:
 - i. Roof-mounted on any code-compliant structure.
 - ii. Ground mounted less than 1/2 acre.
 - iii. Covering permanent parking lots and other hardscape areas.
 - iv. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
2. Level 2 Solar Energy System (SES) – Ground mounted systems greater than or equal to ½ acre and less than ten (10) acres in all Person County Zoning Districts.
3. Level 3 Solar Energy System (SES) – Ground mounted systems greater than or equal to ten (10) acres in all Person County Zoning Districts.

ARTICLE 2. SITE DEVELOPMENT REQUIREMENTS (Rev. 2/7/22)

2.1 General Regulations

Solar energy systems are permitted in Person County as follows:

Table 2.1 General Regulations for Solar Energy Systems in Person County					
<i>X = Permitted Use ; SUP/CD = Special Use Permit/Conditional Rezoning ; left blank = Prohibited</i>					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B- 2)	General Industrial (GI)	Rural Conservation (RC)
Level 1	X	X	X	X	X
Level 2		SUP/CD	SUP/CD	SUP/CD	
Level 3		SUP/CD		SUP/CD	

2.2 Setbacks

Setbacks for solar energy systems are measured from the nearest solar panel to the nearest property line and/or right-of-way line. Setbacks for solar energy systems in Person County as follows:

Table 2.2 Setback Requirements for Solar Energy Systems in Person County					
<i>Left blank = Prohibited in that district</i>					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B- 2)	General Industrial (GI)	Rural Conservation (RC)
Level 1	Per District Regulations contained in Person County Planning Ordinance				
Level 2 *		200'	200'	200'	
Level 3 *		200'		200'	

* All solar energy systems shall be separated by a minimum distance of 300' from all residential dwellings as measured from the nearest solar panel to the nearest dwelling. In addition, all solar energy systems shall be separated by a minimum distance of 100' from the nearest well

EXCEPTION: Where a solar energy system facility is located on multiple contiguous lots of record in separate ownership, the building setback and buffer requirement shall apply only to the exterior perimeter of the project boundaries surrounding the facility and not the interior property boundaries within the facility. A written waiver signed by the property owner(s) shall be required.

2.3 Height and Size Limitation

- a) For Level 1 roof mounted systems, height is limited to the applicable district regulation. The height of Level 1, 2, and 3 ground mounted systems shall be measured from the highest natural grade below each solar panel. For ground mounted systems, panel height shall not exceed 15' in all districts. Poles and wires reasonably necessary to connect to public electric utilities for all solar energy systems shall not be subject to this requirement.
- b) The maximum size of a level 3 solar energy system shall not exceed one hundred (100) acres as measured around the exterior perimeter of the panels (outside of the buffer area). No level 3 solar energy system shall be located within one (1) linear mile of an existing level 3 solar energy system.

2.4 Buffers and Landscaping

- a) Level 1 systems shall be exempt from buffering and landscaping requirements.
- b) Solar collectors, accessory equipment, and associated outside storage for Level 2 and 3 systems shall be completely screened with a 150' vegetative buffer from view from all property and right-of-way lines. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows:
 - 1. Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall be a minimum of 6' at planting and have a minimum height of 15' within 3 years and spread of at least 30' within 10 years; and,
 - 2. 5 evergreen shrubs, or 3 evergreens and 2 deciduous shrubs, that shall be a minimum of 3' at planting and have a height and spread of at least 5' in 10 years.
 - 3. Existing vegetation may be counted toward the required plantings when identified on a landscape plan and certified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.

2.5 Aviation Notification

- a) Level 1 systems shall be exempt from aviation notification requirements.
- b) For all Level 2 and 3 systems, a map analysis showing a radius of five (5) nautical miles from the center of the solar energy system with any airport operations within this area highlighted shall be submitted with the initial application.
 - 1. For systems not containing airport operations within five (5) nautical miles from the center of the solar energy system, attach map analysis results to permit application.

2. For systems containing airport operations within five (5) nautical miles from the center of the solar energy system, the following items must be included with the permit application:
 - i. Map analysis results.
 - ii. Determination of whether the airport is in the National Plan of Integrated Airport Systems (NPIAS).
 - iii. Documentation/certification that the project will not interfere with airport/aircraft communications systems.
 - iv. Proof of delivery of notification, date of delivery, and response(s) for the following documents:
 - a) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the solar energy system shall be sent to the NC Commanders Council at least 45 days before the Special Use Permit/Conditional Rezoning hearing for Level 2 and 3 solar energy systems and at least 45 days before starting construction for all other Level 2 and 3 solar energy systems. Notification shall include location of solar energy system (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground mounted fixed PV, tracked PV, solar thermal, etc.), and the area of the system (e.g. 5 acres).
 - b) A full report for each flight path and observation point, as well as the contact information for the Planning Director, shall be sent to the authority indicated below at least 45 days before the Special Use Permit/Conditional Rezoning hearing for Level 2 and 3 solar energy systems and at least 45 days before starting construction for all other Level 2 and 3 solar energy systems. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. SGHAT can be accessed via the following website: www.forgesolar.com.
 1. Airport operations at airports in the National Plan of Integrated Airport Systems (NPIAS) within five nautical miles of the center of SES: provide required information to the North Carolina Division of Aviation and Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina and receive responses from those agencies at least 10 business days prior to the hearing. Those responses shall be

provided to both the Person County Planning and Zoning Department and Person County Airport Commission.

2. Airport operations at airports *not* in the NPIAS, including military airports, within five nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.
- v. Any applicable solar energy system design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in iii.b. (1) and iii.b. (2) for accurate records of the as-built system.

2.6 *Decommissioning and Abandonment*

- a) Decommissioning and abandonment requirements shall only apply to Level 2 and 3 solar energy systems
 1. Level 1 systems shall be exempt from decommissioning and abandonment requirements.
- b) A solar energy system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the solar energy system provides substantial evidence (updated every six (6) months after 12 months of no energy production) to the Planning Director of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the solar energy system. Restoration to less than the original condition is acceptable when it is requested in writing by the parcel owner.
- c) At the time of applying for permits, the applicant (solar energy system developer or property owner) shall include a decommissioning plan addressing the following items:
 1. Anticipated life of the solar energy system.
 2. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
 3. Removal of all non-utility owned equipment, conduit, structures, fencing, solar panels, and foundations.
 4. Restoration of property to condition prior to development of the solar energy system.
 5. Timeframe for completion of decommissioning activities, not to exceed one (1) year.

6. Description and copy of any lease or any other agreement with the property owner regarding decommissioning.
 7. Name and address of person or party responsible for decommissioning.
 8. Plans and schedule for updating the Decommissioning Plan.
 9. A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use for 365 days, such as a letter from the electric utility stating that it will notify the Planning Department within ten (10) business days if electricity is not received from an array within the solar energy system for 365 days.
 10. Estimated decommissioning costs including contingency costs of at least 25% (in current dollars), as provided by an appropriately experienced, North Carolina licensed Engineer, under seal.
- d) Prior to the issuance of a zoning compliance certificate, the county must receive a performance guarantee in favor of the county in an amount equal to 1.25 times the estimated decommissioning cost as determined by a North Carolina licensed engineer. The performance guarantee must be satisfactory to the Planning Director and may include a performance bond, irrevocable letter of credit, cash deposit or other surety approved by the Planning Director and County Attorney. Following initial submittal of the performance guarantee, the cost calculation for decommissioning shall be reviewed every three (3) years, and adjusted accordingly based upon an updated estimate of a North Carolina licensed Engineer under seal, of the estimated decommissioning costs. Failure to comply with any requirement of this section shall result in the immediate termination and revocation of all prior approvals and permits; further, the County shall be entitled to make immediate demand upon, and/or retain any proceeds of the surety, which shall be used for the decommissioning and/or removal of the solar energy system, even if it is still operational.

ARTICLE 3. LEGAL PROVISIONS (Rev. 2/7/22)

3.1 Procedure for Solar Energy System Development Approval

- A. After the effective date of this ordinance, no proposed solar energy system as defined in this ordinance and within Person County's jurisdiction shall proceed with construction until it has been submitted to and approved by the Planning Director or his/her designee and as evidenced by an approved Person County Zoning Permit in accordance with the provisions of this ordinance.
- B. Existing SES developments are governed under the Planning Ordinance regulations in place prior to the effective date of this ordinance unless a major modification as defined by this ordinance is proposed and requires a new Special Use Permit to be issued. If a new Special Use Permit is required, the SES will be required to meet the provisions of this Ordinance.

C. Level 1 Solar Energy Systems as Permitted Uses

Level 1 solar energy systems allowed as permitted uses must meet the applicable height, setback, and related district standards. Level 1 solar energy systems must complete the following for approval:

- 1. Approval from Person County Environmental Health or the City of Roxboro Public Works.
- 2. Addressing from Person County GIS.
- 3. Zoning permit application and site plan for Person County Planning and Zoning. *
- 4. Building permit application and building plans for Person County Building Inspections.

In addition to general site plan requirements, site plans submitted to Person County Planning and Zoning for Level 1 solar energy systems must show the following:

- 1. The entire property boundary including existing structures.
- 2. Planned location of each solar array and accessory equipment.
- 3. The front, rear, and side setbacks of the solar array and accessory equipment.
- 4. (If applicable) Required buffer areas with description.
- 5. A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

*Following completion of construction, Level 1 ground mounted solar energy systems may be required to submit a final as-built survey to the Planning Director. Following approval of the final as-built survey, systems may receive their Certificate of Occupancy.

D. Level 2 Solar Energy Systems as Permitted Uses

Level 2 solar energy systems allowed as permitted uses must meet the applicable height, setback, aviation notification, and related district standards. Level 2 solar energy systems must complete the following for approval:

1. Approval from Person County Environmental Health or the City of Roxboro Public Works.
2. Addressing from Person County GIS.
3. Zoning permit application and site plan for Person County Planning and Zoning. *
4. Decommissioning Plan submitted to Person County Planning and Zoning.
5. Building permit application and building plans for Person County Building Inspections.

In addition to the standards listed in the Person County Planning Ordinance *Commercial and Industrial Site Plan Requirements*, the site plan submitted to Person County Planning and Zoning must show the following:

1. Planned location of each solar array and accessory equipment.
2. The front, rear, and side setbacks of the solar array and accessory equipment.
3. (If applicable) Required buffer areas with description.
4. A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

*Level 2 solar energy systems in the Neuse watershed may require additional materials

Following completion of construction, all Level 2 solar energy systems shall submit a final as-built survey to the Planning Director. Following submission and approval of the final as-built survey, Level 2 solar energy systems must receive an approved final zoning inspection performed on-site by the Person County Planning and Zoning Department prior to receiving their Certificate of Occupancy. Properties located in the Neuse watershed may require additional materials prior to receiving their Certificate of Occupancy.

E. Level 2 and 3 Solar Energy Systems Requiring Special Use Permits or Conditional District Rezoning

Level 2 and 3 solar energy systems requiring Special Use Permits or Conditional District Rezoning must submit a completed Special Use Permit/Conditional District Rezoning Application and site plan to the Person County Planning and Zoning Department*. A copy of all aviation requirements shall also be submitted to the Person County Airport Commission. Applicants may choose to provide a sketch plan to the Planning Administrator ahead of a site plan, as sketch plans do not require much investment and are an opportunity for the Planning Administrator to point out design changes ahead of more expensive site planning.

1. In addition to the standards listed in the Person County Planning Ordinance *Commercial and Industrial Site Plan Requirements*, the site plan submitted to Person County Planning and Zoning must show the following:
 - a) A narrative describing the proposed solar energy systems, including an overview of the project and estimated megawatt output of the project,
 - b) Planned location of each solar array and accessory equipment.
 - c) The front, rear, and side setbacks of the solar array and accessory equipment.
 - d) (If applicable) Required buffer areas with description.
 - e) A table containing the number, dimensions, height, and type of each proposed solar array.
 - f) Location where wiring is brought together for inter-connection to the system components and/or the local utility power grid, and location of disconnect switch.
 - g) Location of any onsite battery storage systems/units.

* Level 2 and 3 solar energy systems in the Neuse watershed may require additional materials

2. The following information shall also be included in the submittal for a special use permit or conditional district rezoning application:
 - a) A copy of the lease agreements with each property owner and any access and utility easements. Lease agreements shall have a provision that describes how the agreement may be renewed. Identifying information, as defined in North Carolina General Statute §14-113.20(b), and proprietary information may be redacted.
 - b) Evidence that the electrical utility provider has established an agreement/contract with the solar energy system owner to install an interconnected system. Any customer-owned generator (off grid systems) shall be exempt from this requirement.
 - c) Documentation regarding the type and quantity of battery storage units and configurations, if onsite battery storage systems are to be used. Any battery storage technology that contains PFAS (Polyfluoroalkyl substances) must be noted in the application. If the project intends on using PFAS-containing battery storage technology, a containment plan and a separate decommissioning plan from the plan described below must be submitted for approval. If the battery-decommissioning plan includes recycling as a method for disposition of the spent batteries, the name of the recycling facility permitted to accept PFAS-containing batteries must be provided. If the project does not intend to use PFAS-containing batteries, certification from the

battery manufacturer must be provided stating that the batteries used do not contain PFAS.

- d) A Phase 1 Environmental Site Assessment prepared by a duly licensed professional in the State of North Carolina.
- e) Fire Prevention and Emergency Response facilities shall be installed by the solar energy system owner and approved by the Person County Fire Marshal to include, at a minimum, the following:
 - 1. Confirmation that the fire department located in the same fire district as the major solar energy system has or will acquire equipment to contain and extinguish any fire at the solar energy system. Any new equipment requested by the fire district shall be paid for by the major solar energy system owner.
 - 2. Chemical fire suppressants shall be located and properly stored at each battery storage area and transformer as directed by the County Fire Marshal.
 - 3. An Emergency Response Plan consistent with all applicable Federal Emergency Management Agency guidelines shall be prepared by the solar energy system owner and approved by the County Fire Marshal.
 - 4. The 50' area in between the edge of the buffer and the panels shall be maintained and inspected on an annual basis (see Section 3.1-i) to ensure that emergency vehicles can adequately access the perimeter of the site.
- f) Other relevant studies, reports, certifications, information, documents and approvals as may be reasonably requested by the County to ensure compliance with this ordinance. Recognizing the unique environmental challenges of a solar energy system, studies that may be required under this paragraph may include but are not limited to the following:
 - 1. Field surveys for all State or Federal listed species that are protected under State or Federal Law;
 - 2. Geologic reports mapping and describing geological resources such as bedrock outcrops, groundwater recharge zones, seeps, springs and general characterization of groundwater resources;
 - 3. Surface water resources including wetlands;
 - 4. Site specific soil surveys to include information on prime farmland soils as classified by the USDA Natural Resources Conservation Service, hydric soils and

hydric components of non-hydric soil series, soil erodibility, agricultural suitability and site index for growing timber;

5. Environmental constraints analysis;
 6. Other studies of the project site, receiving waters, and adjacent or nearby natural and environmental resources as may be requested by any County agency.
- F. Special Use Permit/Conditional District Rezoning Applications and site plans shall be submitted in a timely manner so as to allow Person County Planning and Zoning staff adequate time to meet legislative advertising requirements. The Person County Board of Commissioners will conduct a public hearing to review the solar energy system Special Use Permit/Conditional District Rezoning (the Planning Board shall also review the conditional district rezoning prior to review by the Board of Commissioners). Following review of the application, the Board of Commissioners will render a decision.
- G. Following approval of the Special Use Permit or Conditional District Rezoning, Level 2 and 3 solar energy systems must complete the following for approval:
1. Approval from Person County Environmental Health or the City of Roxboro Public Works.
 2. Addressing from Person County GIS.
 3. Zoning permit application and approved site plan for Person County Planning and Zoning.*
 4. Decommissioning Plan submitted to Person County Planning and Zoning.
 5. Building permit application and building plans for Person County Building Inspections.

* Level 2 and 3 solar energy systems in the Neuse watershed may require additional materials

- H. Following completion of construction, all Level 2 and 3 solar energy systems shall submit the following:
1. A final as-built survey shall be submitted to the Planning Director.
 2. A letter of certification from a North Carolina licensed engineer indicating that the inverter noise shall not exceed the lower of 3dBA Leg (1 HR) above preconstruction background or 40 Leg (1 HR) dBA, measured at any property line during output that exceeds 95% rated capacity from the facility.

Following submission and approval of the final as-built survey, Level 2 and 3 solar energy systems must receive an approved final zoning inspection performed on-site by the Person County Planning and Zoning Department prior to receiving their Certificate of Occupancy. Properties located in the Neuse watershed may require additional materials prior to receiving their Certificate of Occupancy.

- I. An annual inspection performed by the Planning Director and/or his designee to ensure compliance with the requirements of this ordinance and an inspection fee shall be charged to the owner of the

solar energy system as set out in the official fee schedule approved by the Person County Board of Commissioners. Any deficiencies noted shall be corrected upon receipt of notice from the Planning Director, either following the annual inspection or when the deficiency becomes known to the Planning Director or owner of the solar energy system.

3.2 Penalties for Violations

Any person, firm, corporation, or other entity who constructs, maintains or operates, or who controls the maintenance of a solar energy system in violation of this Ordinance shall be guilty of a misdemeanor and subject to prosecution, and if convicted, shall be punished by a fine not to exceed \$500, or by imprisonment not to exceed 30 days, or both, in the discretion of the court. Each day that said solar energy system is constructed, maintained or operated in violation of this Ordinance shall constitute a separate and distinct offense.

3.3 Severability

Should any provision of this Ordinance be declared by any court, administrative body, or board, or any other governmental body or board, to be unconstitutional, invalid, preempted, void, or otherwise inapplicable for any reason, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void, or otherwise inapplicable.

3.4 Variance

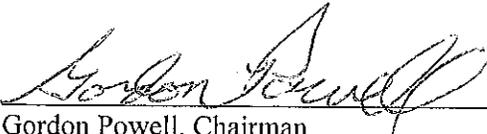
A variance from the provisions of this Ordinance may be authorized by the Board of Adjustment provided that all of the following criteria are met:

- a) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c) The hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

- d) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

3.5 *Effective Date*

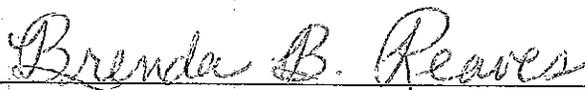
This Ordinance was duly adopted by the Board of Commissioners of Person County, North Carolina on the 5th day of October 2020 and revised on the 7th day of February 2022.



Gordon Powell, Chairman
Person County Board of Commissioners

2/10/2022
Date

Attested by:



Brenda B. Reaves, Clerk to the Person County Board of Commissioners

