

ORDINANCE

A ZONING ORDINANCE TEXT AMENDMENT TO ARTICLES 5 AND 15 TO DEVELOP STANDARDS AND DEFINITIONS FOR SOLAR FACILITIES AND TO ALLOW UTILITY SCALE SOLAR FACILITIES AS A SPECIAL USE

WHEREAS, Solar Facilities are currently permitted as an accessory use to residential in Rural and Residential Districts; and

WHEREAS, Utility Scale Solar Facilities are currently permitted with a Special Exception as Electrical Generating Plants and Facilities in the Agricultural (RA) and Industrial General (I-2) Zoning District; and

WHEREAS, there has been increased interest in Utility Scale Solar Facilities in the County as a green energy option and due to the increase in technology-related uses in the community; and

WHEREAS, Utility Scale Solar has its own unique development criteria that differs from a traditional Electrical Generating Plant; and

WHEREAS, there is a desire for Utility Scale Solar Facilities to have its own standards and definitions that represent the goals and visions of the County's Comprehensive Plan; and

WHEREAS, the County has determined that the public necessity, convenience, general welfare and good zoning practice warrant this amendment; and

WHEREAS, the Fauquier County Board of Supervisors initiated this text amendment on July 11, 2019; and

WHEREAS, the Fauquier County Planning Commission held public hearings on December 19, 2019 and February 20, 2020 and considered written and oral testimony on the proposed text amendment; and

WHEREAS, on February 20, 2020, the Fauquier County Planning Commission voted four to one to recommend approval of the proposed text amendment; and

WHEREAS, on October 8, 2020, the Fauquier County Board of Supervisors held a public hearing and considered written and oral testimony on the proposed text amendment; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 8th day of October 2020, That the Board of Supervisors hereby approves the following text amendment to Articles 5 and 15 of the Zoning Ordinance:

ARTICLE 5
ADMINISTRATIVE PERMITS, SPECIAL PERMITS AND SPECIAL EXCEPTIONS

PART 20 5-2000 CATEGORY 20 PUBLIC UTILITIES

5-2001 Additional Submission Requirements

3. A Special Exception application for a Utility Scale Solar project shall also include the following:
- A. A 2232 Comprehensive Plan Review shall be required prior to submission of a Special Exception for Utility Scale Solar projects. This review by the Planning Commission shall determine if their general or approximate location, character and extent are substantially in accord with the Comprehensive Plan.
 - B. In addition to the information required in Section 5-2001.1.A. and 5-011.2.3., the plat shall also include:
 - a. Minimum required setback lines in the zoning district under which the project is proposed, the minimum required setbacks under this article and any proposed setbacks that exceed the minimum requirements.
 - b. Existing and proposed buildings, drainfields, wells, and other structures, including preliminary location(s) of the proposed solar equipment.
 - c. Existing and proposed access roads, permanent entrances, turnaround locations and parking.
 - d. Proposed location of fencing and buffering.
 - e. Proposed limits of clearing and grading and preliminary location of stormwater management facilities.
 - f. Existing 100-year floodplain boundary, limits of wetlands, location of woodlands and wildlife corridors, areas of native vegetation and areas under existing cultivation.
 - g. Existing soils information as determined by a Type I Soils Report prepared by the Fauquier County Soils Scientist's Office or a Preliminary Soils Report prepared by a certified professional soil scientist highlighting the areas of prime agricultural soils, moderately steep and steep slopes as identified in the latest edition of the Interpretive Guide to the Type I Soils of Fauquier County, VA.
 - h. Location of any existing historic or cultural site, scenic highway, or public facility within one mile of the project boundary.
 - C. A viewshed analysis utilizing a scaled elevation view and other supporting drawings and photographs of the proposed site, or other realistic simulation or modeling of the proposed solar energy project to assess the visual impact of the project.
 - D. A fiscal impact analysis, prepared by a qualified third-party, that analyzes any expected impact on the County's tax revenues, the estimated costs to the County associated with the facility in the form of additional services, and information on any other economic benefits or burdens from the facility.
 - E. A wetlands study prepared by an individual qualified to prepare the required report to the U.S. Army Corps of Engineers.
 - F. A cultural resources study, prepared by a qualified third party, that identifies historical, architectural, archeological or other cultural resources on the property and within a one mile radius of the proposed facility.

- G. A report on the potential impacts on wildlife and wildlife habitats at the site and within a one mile radius of the proposed facility using information provided by the state Department of Game and Inland Fisheries or a report prepared by a qualified third-party.
- H. A report prepared by a qualified third party on potential impacts on pollinators and pollinator habitats at the site.
- I. A glint and glare study that demonstrates either that the panels will be sited, designed, and installed to eliminate glint and glare effects on roadway users, nearby residences, commercial areas, and other sensitive viewing locations, or that the applicant will use all reasonably available mitigation techniques to reduce glint and glare to the lowest achievable levels.
- J. A report from the transmission owner or a regional transmission organization stating that the transmission system has sufficient capacity to support the proposed project.
- K. An estimated construction schedule.
- L. Additional information may be required, as determined by the Zoning Administrator, based on the results of the above studies for a technical review of the proposal. The Planning Commission or Board of Supervisors may require other relevant information deemed to be necessary to evaluate the application.

5-2003 Additional Standards for Utility Scale Solar Projects

1. The maximum project size for individual Utility Scale Solar projects shall not exceed one thousand ~~five hundred (1,500)~~ (1,000) acres. Projects consisting of multiple parcels shall be contiguous in order to be considered part of the project.
2. In addition, no more than ~~twelve~~ eight percent of the land in a two and one-half mile radius of the project area of any existing utility scale solar project shall be approved for use as the project area for a new utility scale solar project.
3. Projects shall be located within two and one-half miles of electric transmission lines.
4. Solar panels shall not cover more than ~~65%~~ 80% of the project area.
5. The project shall have access to a major collector (or higher) as designated in the Comprehensive Plan unless the Board of Supervisors finds the amount of traffic generated by the facility is such that frontage on a public road with a lesser designation will not cause an undue impact on the neighbors or adversely affect safety or road usage.
6. Solar panels shall not exceed fifteen (15) feet in height measured from existing grade below the panel and the lowest surface of the panel shall be a minimum of ~~four (4) feet~~ eighteen (18) inches above grade.
7. Solar equipment shall not be placed within the minimum setback required by the district within projects that consist of multiple parcels. The following additional minimum setbacks shall apply from all solar equipment:
 - a. 100' setback to the project boundary.
 - b. 150' setback to any existing residential dwelling.
8. Solar equipment and panels shall be set back a distance of 1,000 feet from a right-of-way line of a street identified as a Corridor of Statewide Significance. The setback ~~can~~ may be modified by the ~~Zoning Administrator~~ Board of Supervisors upon demonstration the panels will not impact the viewshed from the identified corridor ~~at the time of Site Plan~~ with the Special Exception application.

9. All 100-year floodplains, wetlands and steep slopes shall be protected from clearing, grading, filling or construction, except as required for essential infrastructure such as road or utility crossings.
10. The layout of the facility shall be designed to avoid all identified historic, archaeological or cultural sites.
11. Solar panel components shall have a UL listing and shall be designed with an anti-reflective coating. Individual arrays/panels shall be designed and installed in order to prevent glare toward buildings on adjacent properties and vehicular traffic.
12. All property containing panels shall be enclosed with chain link fencing ~~seven (7) feet tall, topped with barbed wire~~ not less than six (6) feet in height, topped with an appropriate anti-climbing device, and secured with gates. Fencing shall be installed on the interior of any buffer.
13. A vegetated buffer shall be required that consists of a landscaped strip at least 50 feet wide measured from each boundary line of the project around the entire perimeter. The project shall be landscaped and maintained with a buffer of plant materials that are mature enough to effectively screen the view, to eight feet above ground level, of the solar panels from adjacent properties all year around. Screening shall be fully established within five years and effectively maintained for the life of the project. Non-invasive plant species, pollinator-friendly and wildlife-friendly native plants, shrubs and trees shall be used.
14. The entire project, including the area underneath the solar panels, shall be vegetated. Panels shall be adequately spaced to ensure sufficient sunlight penetration to promote growth of vegetation. A plan shall be submitted for maintenance of ~~that~~ the vegetation, except for access roads and accessory structures.
15. When a buffer is not required based on the results of a viewshed analysis, buffer requirements may be waived or modified when the adjoining property is subject to an active agricultural use and the adjoining property owner(s) agree that no buffer is necessary or a reduced buffer is acceptable.
16. All newly installed utilities, including but not limited to electric, fiber, and telephone lines serving the site shall be placed underground.
17. All facilities shall meet or exceed the standards and regulations of the Federal Aviation Administration (FAA), the State Corporation Commission (SCC) or equivalent, and any other agency of the local, state or federal government with authority to regulate such infrastructure that are in force at the time of the application or which applies retroactively.
18. Projects located within the Airport Area District shall obtain consent from the Warrenton-Fauquier Airport Committee stating the project meets the requirements for construction in Airport Safety Zones.
19. Any change of ownership or management of the solar installation shall be reported to the Zoning Administrator within ~~60~~ 90 days of the change.
20. Applicants for new Utility Scale Solar projects shall coordinate with the County's emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.
21. The owner or operator of a Utility Scale Solar facility shall completely decommission a facility within 12 months if the facility ceases to generate electricity for a continuous period of 12 months. The Board of Supervisors may extend this period if the owner or operator provides evidence that the failure to generate electricity is due to circumstances beyond their control and the facility has not been abandoned.

22. A decommissioning plan shall be submitted with the Site Plan application. Decommissioning shall include the removal of all solar collectors, cabling, electrical components, fencing and any other associated equipment, facilities and structures to a depth of at least 36 inches and stabilization of the site. The plan shall include the following:
- a. The anticipated life of the project;
 - b. The estimated decommissioning cost in current dollars;
 - c. How said estimate was determined; and
 - d. The manner in which the project will be decommissioned.

The full estimate of decommissioning shall be guaranteed by escrow at a federally insured financial institution, irrevocable letter of credit or surety bond prior to a building permit being issued. The decommissioning cost guarantee shall remain valid until the solar energy facility has been fully decommissioned. The cost estimate shall be recalculated every five (5) years and the surety increased when the recalculated estimate exceeds the guarantee amount by 10%.

23. The facility owner/operator shall notify the Zoning Administrator by certified mail of the proposed date of discontinued operations and plans for removal.

ARTICLE 15
ORDINANCE STRUCTURE, INTERPRETATION AND DEFINITIONS

PART 3 15-300 DEFINITIONS

SOLAR, UTILITY SCALE. An electrical generating plant, whose primary purpose is to produce power for consumption by, or under contract to, a utility provider, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware.

A Copy Teste



*Paul S. McCulla, County Administrator
Clerk to the Board of Supervisors*

