



**CUMBERLAND COUNTY PLANNING COMMISSION
Work Session
Circuit Courtroom of the Cumberland Courthouse**

**Meeting Agenda for:
Monday, April 12, 2021, at 6:30 P.M.**

	<u>Action Needed</u>
1. Call to Order and Welcome of Guests: Dr. Bill Burger, Planning Commission Chairman.....	Bring to Order
2. Roll Call and Establish Quorum	Quorum
3. Approval of Agenda	Motion
4. Action: Utility-scale Solar Energy – Proposed Amendments (pg. 1-5)	Discussion
a. Staff presentation	
b. Commission discussion	
c. Action	Motion
5. Old Business	Discussion
6. New Business	Discussion
7. General Commissioner Comments	Comment
8. Adjourn to regular meeting on April 26, 2021, or as soon after as may be heard.....	Motion



DATE: April 05, 2021
TO: Cumberland County Planning Commission
FROM: Stephany S. Johnson, Planning & Zoning Administrator
RE: Further amendments to the Large-scale Solar Energy Ordinance

Information

At its March 26, 2021 meeting, the Planning Commission requested staff undertake additional ordinance amendments as follows:

- Decommissioning – provide definition and require a decommissioning plan;
- Require the decommissioning plan to be prepared by a Professional Engineer;
- Provide decommissioning requirements to ensure the site is returned to its original condition(s);
- Provide bond or surety for the duration of the project to ensure the facilities are removed and the site is returned to its original condition(s);
- Require that the applicant provide the County with any changes in activities on the site; and
- Encourage the developer contribute to the County’s tax base and/or employment opportunities.

Proposed ordinance amendments are attached to reflect the above recommendations.

**Proposed CA 21-05
Solar Facility Code Amendments**

Utility-scale solar energy facility shall be permitted with conditional use permit in the following districts: A-2, and M-2.

Add the following to Sec. 74-2 – Definitions.

Canopy tree means a tree that shall measure a minimum of three (3) inches in caliper and ten (10) feet in height at the time of planting.

Decommissioning means the removal of the solar energy facility including a decommissioning plan, which shall be followed after the anticipated useful life, or abandonment, or termination of the project. Among other things, revegetation and road repair activities should be addressed in the plan.

Evergreen tree means a tree that has foliage and that remains green and functional year-round. Such tree shall measure a minimum of two (2) inches in caliper and six (6) feet in height at the time of planting.

Understory tree means a tree that shall measure a minimum of two (2) inches in caliper and six (6) feet in height at the time of planting.

Utility-scale solar energy facility, means an installation principally designed and used to capture and convert solar energy into electric or thermal energy for off-site use, such as transmission to the power grid. The area of the system includes all the land inside the perimeter which extends to any fencing. The term applies, but is not limited to, solar photo-voltaic ("PV"), solar thermal, and solar hot water systems. All such facilities shall be subject to the following standards:

- 1) Certain solar facilities exempt. Solar facilities dedicated primarily to the production of electricity for another facility located on the site and solar facilities permitted by Code of Virginia, § 15.2-2288.7 shall not be subject to the conditional use permit requirements.
- 2) Site plan required. Solar facilities must be developed in accordance with an approved site plan that meets the standards of Sec. 74-1103 "Site plan contents" of Cumberland County Code.
- 3) Approved solar components. Electric solar system components must have a UL listing or equivalent.
- 4) Distribution lines. To the extent reasonably practical, all new distribution lines to any building, structure, or utility connection shall be located underground (trenched) to the extent permitted by the electric company.
- 5) Compliance with building code. All active solar facilities shall meet all requirements of the Virginia Uniform Statewide Building Code as well as all federal and state statutes, codes, regulations, and ordinances; and shall be inspected by the Cumberland County Building Official.
- 6) Land Disturbance. A land disturbance plan shall be prepared by an engineer, submitted by the applicant, and approved by the Commonwealth of Virginia Department of

Environmental Quality and the Peter Francisco Soil & Water Conservation District prior to any land disturbance. The owner or operator shall construct, maintain and operate the project in compliance with the approved plan. An E&S bond (or other security) will be posted for the construction portion of the project

- 7) Utility notification. No grid tied photovoltaic system shall be installed until evidence has been submitted to the planning department that the owner has been approved by the utility company to install the system.
- 8) Setbacks. With the exception of poles and lines necessary to connect to the power grid, the perimeter of the system shall be located at least fifty (50) feet from the property line of any adjoining parcel owned by any landowner other than the owner of the parcel on which the solar facility is being proposed; at least one hundred (100) feet from the nearest inhabitant residence at the time of the initial application; and at least one hundred (100) feet from any public road.
- 9) Height. With the exception of the lighting, poles, and lines necessary to connect to the power grid, the height of structures and arrays in the system shall be ground mounted and not exceed fifteen (15) feet as measured from grade at the base of the structure to the apex of the structure
- 10) Security fencing. The solar facility shall be enclosed around the perimeter by a security fence with a minimum height of six (6) feet.
- 11) Liability insurance. The applicant shall provide proof of adequate liability insurance for a solar facility prior to the issuance of a zoning or building permit. This shall be provided to the Zoning Administrator.
- 12) Signage. No signage is allowed on the solar facility fencing except for a sign, not to exceed thirty-two (32) square feet, displaying warnings, the facility name, address, physical E-911 address, and emergency contact information.
- 13) Noise. Inverter noise shall not exceed fifty (50) dBA, measured at the facility property line.
- 14) Vegetative screening. A vegetative buffer yard shall be required. The vegetative buffer yard shall meet one or more of the following set of requirements:
 - a. Forty (40) feet wide with:
 - i. Four (4) canopy trees per one hundred (100) linear feet
 - ii. Six (6) understory trees per one hundred (100) linear feet
 - iii. Eleven (11) evergreen trees per one hundred (100) linear feet

The use of existing, healthy, well-formed canopy trees, understory trees, evergreen trees, and shrubs shall be maximized wherever practical to comply with these vegetative buffer requirements.

- 15) Maintenance. Native grasses shall be used to stabilize the site for the duration of the facility's use. Site access, buffer areas, and all landscaping shall be maintained to a level acceptable to Cumberland County. The project owner shall be responsible for maintaining the solar facility and access roads.

- 16) Decommissioning/Abandonment/**Decommissioning Plan/Bond Required**. The system owner and the owner of the land on which the solar facility is located shall be responsible and liable, jointly and severally, to begin removing all obsolete or unused systems, facilities and equipment within six (6) months of cessation of operation and shall have them fully removed within twelve (12) months.

All components are to be recycled whenever feasible. Reasonable extensions of that time may be granted from time to time by the Zoning Administrator upon timely application and a showing that (a) the system owner and/or landowner are actively seeking sale or lease of the solar facilities for future operation, or (b) the system owner or landowner have continuously maintained the land and facilities in good condition.

Every charge authorized by this section which remains unpaid shall constitute a lien against the property on which a solar facility is located ranking on a parity with liens for unpaid county taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq. and 58.1-3965 et seq., as amended.

A decommissioning plan shall be prepared by the Professional Engineer and shall include the following: (a) the anticipated life of the project; (b) the estimated decommissioning cost and how such cost is determined; (c) the manner in which it is to be decommissioned; and (d) surety or a bond posted prior to obtaining a land disturbance permit for the duration of the project. Such surety or bond may include any salvage value derived from the old facility.

The decommissioning plan must provide for the removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that the ground is again tillable and suitable for agricultural purposes. Disturbed earth shall be graded and reseeded. Hazardous material shall be disposed of in accordance with federal and state law.

- 17) Glare. The solar facility shall be installed so that no reflected glare is visible at the property line adjacent to a public road.
- 18) FAA Requirements. Any solar facilities located within five (5) nautical miles of any airport shall meet all FAA requirements.
- 19) Lighting. All outdoor lighting shall be shielded to direct light and glare onto the system's premises.
- 20) Wetlands. Wetlands shall be inventoried, delineated, and avoided.
- 21) Access. The County Administrator, Building Official, or Zoning Administrator, or any other parties designated by those County officials, shall be allowed to enter the property at any reasonable time to check for compliance with the provisions of this permit. Furthermore, access shall be granted without notice if the security, health and safety standards and regulations that apply to the project site pose a risk.
- 22) Change in ownership or operator **and activities**. The owner and operator shall provide a written notice to the County **Administrator and Zoning Administrator** in the event of any change in ownership or any change in the operator **or inactivity**.

Additional considerations for conditions.

To preserve and protect county view sheds and resources, to protect the health, safety and welfare of the community, and to otherwise advance the purpose and intent of this article, the following non-exhaustive list of additional criteria may be considered by the planning commission and the board of supervisors in addressing whether to recommend or grant a permit, and what conditions to impose on any permit for an energy generation facility:

- a) The topography of the site and the surrounding area.
- b) The proximity of the site to, observability from, and impact on urban and residential areas.
- c) The proximity of the site to other energy facilities and utility transmission lines.
- d) The proximity of the site, observability from and impact on areas of scenic significance and of historical, cultural and archaeological significance.
- e) The proximity of the site, observability from and impact on public rights of way to include all roads, recreational and state facilities.
- f) The preservation and protection of wildlife and pollinator habitats and corridors.
- g) The size of the site.
- h) The proposed use of available technology, coatings and other measures for mitigating adverse impacts of the facility.
- i) **The encouragement of economic development activities that provide desirable employment or the enlargement of the tax base.**
- j) The preservation and protections of prime farmland and forestland in the county, provided that:
 - 1. "Prime farmland" shall have the meaning assigned to it by the Natural Resource Conservation Service of the United States Department of Agriculture.
 - 2. If no more than ten percent of the site is prime farmland; this consideration will be waived.

The enumeration of these criteria shall not prohibit the planning commission or the board of supervisors from considering other factors deemed relevant to a specific special use permit applicant based on the details of the application. Nothing herein shall limit in any manner the nature and scope of reasonable conditions that may be recommended by the planning commission or imposed by the board of supervisor.

Add “Utility-scale solar energy facility ” subject to obtaining a conditional use permit in Sections 74-133 (A-2)and 74-583 (M-2)