

At a meeting of the Spotsylvania County Board of Supervisors held on November 9, 2017 on a motion by \_\_\_\_\_, seconded by \_\_\_\_\_ and passed \_\_\_\_\_, the Board adopted the following ordinance:

AN ORDINANCE No. 23-173

CA17-0009: Solar Energy Facilities

To amend County Code (“Code Amendments”) Chapter 23 to permit Solar Energy Facilities by Special Use Permit in the Agricultural 2 (A-2), Agricultural 3 (A-3), and Rural (Ru) zoning districts. Proposed amendments include: Division 23-2.1.4 Definitions, to add defined terms; Division 23-4.5.7 Special Uses Standards of Review, to add standards for Solar Energy Facilities; Division 23-6.3.3 Special Uses in the Agricultural 2 (A-2) zoning district, to add Solar Energy Facility as a Special Use; Division 23-6.4.3 Special Uses in the Agricultural 3 (A-3) zoning district, to add Solar Energy Facility as a Special Use; and Division 23-6.24.3 Special Uses in the Rural (Ru) zoning district, to add Solar Energy Facility as a Special Use. Amendments are intended to define, set minimum standards, and designate zoning districts in which Solar Energy Facilities may be permitted by Special Use.

PUBLIC HEARING: 11-9-2017

**WHEREAS**, staff has reviewed the Code Amendments and recommends approval as stated in the Executive Summary dated November 9, 2017; and

**WHEREAS**, the Spotsylvania County Planning Commission held a public hearing on September 6, 2017, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

**WHEREAS**, the Spotsylvania County Planning Commission recommended the matter be continued to allow further exploration of by-right permitting and definition refinement with a vote of 6-0; and

**WHEREAS**, the Spotsylvania County Planning Commission held a public hearing on October 18, 2017, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

**WHEREAS**, the Spotsylvania County Planning Commission recommended approval of the project with a vote of 6-0; and

**WHEREAS**, the Spotsylvania County Board of Supervisors held a public hearing on November 9, 2017, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

**WHEREAS**, good zoning practice and general welfare are served by approval of the Code Amendments.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:**

§ 1. That Chapter 23, Article 2 be and is hereby **amended** and reordained as follows:

**ARTICLE 2. – DEFINITIONS AND RULES OF CONSTRUCTION**

**Sec. 23-2.1.4. - Definitions.**

“Integrated Photovoltaic Material” or “Integrated PVM” means photovoltaic material incorporated into building materials, such as shingles.

“Photovoltaic material” or “PVM” means materials and devices that absorb sunlight and convert it directly into electricity.

“Solar Energy Facility” or “SEF” means a renewable energy facility that generates electricity from sunlight, consisting of one or more Photovoltaic Material (PVM) systems and other appurtenant structures and facilities within the boundaries of the site, and which is interconnected with the local transmission or distribution system for the purposes of wholesale electric generation. A Solar Energy Facility shall not include net metered solar energy systems installed in accordance with the Code of Virginia § 56-594.

§ 2. That Chapter 23, Article 4, Division 5 be and is hereby **amended** and reordained as follows:

**DIVISION 5. – SPECIAL USES**

**Sec. 23-4.5.7. - Standards of review.**

(d) Solar Energy Facility (SEF) in the A-2, A-3, and Ru districts:

1. Components within the SEF may be replaced or upgraded as needed throughout the life of the facility provided they do not increase visibility from adjoining property owners. Alterations to the SEF’s design which increase visibility beyond that which was approved through an existing SUP shall require amendment of the SUP.
2. Access to the property for Spotsylvania County Fire, Rescue, and Emergency Services shall be provided in a manner acceptable to the County.
3. Noise requirements for SEFs shall be the same as noise requirements for other types of development within residential zoning designations per Section 14.51.
4. SEFs, including all electrical and mechanical components, shall conform to all relevant and applicable local, state, and national codes, standards, and inspection requirements, including but not limited to the Virginia Stormwater Management Program, Virginia Erosion and Sediment

Control Program, Chesapeake Bay Preservation Act, County SUPs 23-4.5, County Chesapeake Bay Preservation 23-6A, and County Stormwater Management 23-19A.

5. Any cleaning products used to maintain photovoltaic materials must be biodegradable.
6. SEFs shall be screened as determined by the Board of Supervisors in order to minimize visibility and aesthetic impacts to neighboring uses and roadways.
7. A view shed analysis shall be submitted to assess visibility from adjoining property owners and roadways.
8. A map analysis shall be submitted depicting any airports within five (5) miles from the exterior boundaries of the SEF. Any airports located within this five (5) mile area shall be notified by the applicant of their SUP application. If notification is required to any airports then the Federal Aviation Administration (FAA) must be additionally notified via FAA's Washington Airports District Office. The notifications must include a copy of the applicant's SUP application as submitted to the County, including all attachments. A sworn affidavit shall subsequently be provided to the County attesting that the notification was sent and received.
9. As part of the SEF application, the applicant shall submit a construction phasing plan which shall include the following:
  - a. The anticipated life of the project;
  - b. The phasing of the project's construction, including any off-site improvements;
  - c. When the project is estimated to be complete.
10. Site(s) identified for SEF use within the construction phasing plan shall be remediated, whether revegetated, resoiled, or regraded, or any combination thereof as described within the decommissioning plan.
11. As part of the SEF application, the applicant shall submit a decommissioning plan executed and notarized by the landowner(s), applicant, and any other responsible party, and such plan shall include the following:
  - a. identification of and full contact information for the party or parties, if any, other than the landowner(s) and the applicant responsible for decommissioning the site;
  - b. The timeline and manner in which the SEF will be decommissioned and the site(s) restored to a condition reasonably similar to the condition prior to development;
  - c. The estimated decommissioning cost in current dollars of each phase described in the construction phasing plan;
  - d. The estimated cost of post-decommissioning site restoration. The estimations of the decommissioning costs shall be calculated by a licensed engineer and shall include all phases of decommissioning, including land restoration.
12. The landowner(s) or applicant shall provide the County with a surety equivalent to the cost of removal of the SEF prior to issuance of a site plan permit. The surety may be in the form of a bond, cash account, or cash escrow. For phased projects, individual sureties may be provided coincident with each phase of the SEF's construction and the site restoration costs may be included incrementally with each phase. The sureties must include an adjustment for inflation over the anticipated life of the project as identified in the construction phasing plan.
13. Commencing two (2) years after the date of approval of the SUP for a SEF, and after every subsequent two (2) year period, on the anniversary of the date of approval of the SUP, the construction plan and decommissioning plan shall be updated and resubmitted to the County

and the decommissioning surety shall be adjusted, if necessary, to reflect the then current decommissioning cost.

14. At such time that any component of the SEF exceeds one (1) continuous year of inoperable status it shall be considered abandoned and the applicant and landowner shall be notified by the Zoning Administrator of the date of the component's abandonment ("Date of Abandonment").
15. Within one (1) year of the Date of Abandonment, the applicant or landowner shall repair or replace the component, or complete the physical removal of the abandoned component(s). This period may be extended at the request of the applicant or landowner upon approval of the Zoning Administrator based on the scope, nature, and location of the abandoned component(s) and their effect on the health, safety, and welfare of the County residents.
16. If removal to the satisfaction of the County does not occur within one (1) year from the Date of Abandonment then the County may remove and salvage the component(s) and all supporting equipment using the decommissioning surety. Should the surety fail to adequately fund the decommissioning of the site(s) the County will recover any difference, including attorney fees and any zoning violation fines, if applicable, through legal action against the designated responsible party or parties identified in the decommissioning plan, applicant, and/or landowner(s) party to the SUP, and their respective successors and assigns.
17. Should the County be forced to use any of a decommissioning surety to remove an abandoned component no additional building permits or site plan permits shall be issued pursuant to the operation of the SEF until a new construction plan, decommissioning plan, and decommissioning surety have been submitted and approved by the County.
18. Any change of ownership, lessee, or party responsible for decommissioning of the SEF, or change in any part of the contact information shall be reported to the Zoning Administrator within 60 days of the change(s).

§ 3. That Chapter 23, Article 6, Division 3 be and is hereby **amended** and reordained as follows:

#### DIVISION 3. - AGRICULTURAL 2 (A-2) DISTRICT

##### Sec. 23-6.3.3. - Special uses.

(43) Solar Energy Facility;

(Renumber remaining uses)

§ 4. That Chapter 23, Article 6, Division 4 be and is hereby **amended** and reordained as follows:

#### DIVISION 4. - AGRICULTURAL 3 (A-3) DISTRICT

Sec. 23-6.4.3. - Special uses.

(42) Solar Energy Facility;

(Renumber remaining uses)

§ 5. That Chapter 23, Article 6, Division 24 be and is hereby **amended** and reordained as follows:

DIVISION 24. - RURAL (RU) DISTRICT

Sec. 23-6.24.3. - Special uses.

(36) Solar Energy Facility;

(Renumber remaining uses)

§ 6. This ordinance shall be in force and effect upon adoption.