



**Amherst County Board of Supervisors  
County Ordinance No. 2024-1**

**AN ORDINANCE, NO. 2024-1**

Amending and enacting §§ 923 of Article IX – Solar Generation Facilities, and §§ 1011 of Article X – Surety for decommissioning of a utility-scale solar generation facility of Appendix A – Zoning and Subdivisions Ordinance to the Code of the County of Amherst, Virginia.

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Approved as to form and legality by the Amherst County Attorney

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**FIRST READING: Board of Supervisors, March 5, 2024  
PUBLIC HEARING: Board of Supervisors, March 19, 2024**

**THE COUNTY OF AMHERST HEREBY ORDAINS:**

**§ 1. That §§ 923 of Article IX and §§ 1011 of Article X of Appendix A – Zoning and Subdivisions Ordinance to the Code of the County of Amherst, Virginia, are hereby amended and enacted as follows:**

**APPENDIX A - ZONING AND SUBDIVISIONS**

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***Article IX. – Solar Generation Facilities***

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**923. Solar generation facilities.**

*923.01. Development standards for small solar generation facilities.* The following provisions apply to all small solar generation facilities:

1. Small solar generation facilities located on structures shall comply with all provisions of the Uniform Statewide Building Code.
2. Small solar generation facilities shall comply with generally accepted national environmental protection and product safety standards for the use of solar panels and battery technologies for solar photovoltaic (electric energy) projects, such as those developed for existing product certifications and standards including the National Sanitation Foundation/American National Standards Institute No. 457, International Electrotechnical Commission No. 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No. 61730-2. A site development plan or building permit application shall make reference to the specific safety and environmental standards complied with.

3. Small solar generation facilities shall be treated with anti-reflection coating.
4. The provisions of this subsection may be varied or modified as part of a master plan or proffered condition.

*923.02. Development standards for agricultural solar generation facilities.* The following standards apply to all agricultural solar generation facilities:

1. Setbacks for agricultural solar generation facilities shall be one hundred fifty (150) feet from the nearest lot line of a parcel not under common ownership, unless mounted on a structure that otherwise meets setbacks.
2. Agricultural solar generation facilities located on structures shall comply with all provisions of the Uniform Statewide Building Code.
3. Agricultural solar generation facilities shall comply with generally accepted national environmental protection and product safety standards for the use of solar panels and battery technologies for solar photovoltaic (electric energy) projects, such as those developed for existing product certifications and standards including the National Sanitation Foundation/American National Standards Institute No. 457, International Electrotechnical Commission No. 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No. 61730-2. A site development plan or building permit application shall make reference to the specific safety and environmental standards complied with.
4. Agricultural solar generation facilities shall be treated with anti-reflection coating.
5. The provisions of this subsection may be varied or modified as part of a master plan or proffered condition.

*923.03. Community meeting prior to application for utility-scale solar generation facility.* A public meeting shall be held prior to the public hearing with the planning commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed facility. The meeting shall be held under the following guidelines:

1. The applicant shall inform the zoning administrator and adjacent property owners in writing of the date, time, and location of the meeting, at least seven (7) but no more than fourteen (14) days in advance of the meeting.
2. The date, time, and location of the meeting shall be advertised in a newspaper of general circulation in the county by the applicant, at least seven (7) but no more than fourteen (14) days in advance of the meeting date.
3. The meeting shall be held within the county, at a location open to the general public with adequate parking and seating facilities that will accommodate persons with disabilities.
4. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.
5. The applicant shall provide to the zoning administrator a summary of any input received from members of the public at the meeting.

*923.04. Application requirements for a special exception for a utility-scale solar generation facility.* In addition to the requirements set forth in Section 1003.03, an application for a special exception for a utility-scale solar generation facility shall contain:

1. A project narrative identifying the applicant, facility owner, site owner, and operator, if known at the time of application, and describing the proposed ~~large~~ utility scale solar energy facility, including an overview of the project and its location; the size of



the site and the project area; the current use of the site; the estimated time for construction and proposed date for commencement of operations; the planned maximum rated capacity of the facility; the approximate number, representative types and expected footprint of solar equipment to be constructed, including, without limitation, photovoltaic panels; ancillary facilities, if applicable; and how and where the electricity generated at the facility will be transmitted, including the location of the proposed electric grid interconnection.

2. A concept plan including the following information:
  - a. Property lines, minimum required setback lines, and any proposed setback lines that exceed the minimum requirements.
  - b. An area map showing the proposed site within a five-mile radius, together with prominent landmarks and physical features.
  - c. Existing and proposed buildings and structures, including preliminary location(s) of the proposed solar equipment.
  - d. Existing and proposed access roads, permanent entrances, temporary construction entrances, drives, turnout locations, and parking, including written confirmation from the Virginia Department of Transportation (VDOT) that all entrances satisfy applicable VDOT requirements; provided, however, these requirements shall not exceed VDOT requirements for other types of projects in the underlying zoning district.
  - e. Proposed locations and maximum heights of substations, electrical cabling from the solar systems to the substations, panels, ancillary equipment and facilities, buildings, and structures (including those within any applicable setbacks).
  - f. Fencing or other methods of ensuring public safety.
  - g. Areas where the vegetative buffering will be installed and maintained and areas where pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs, and wildflowers will be installed and maintained.
  - h. Existing wetlands, woodlands, and areas containing substantial woods or vegetation.
  - i. Identification of recently cultivated lands and predominant soil types (based on publicly-available data) of those lands.
  - j. Additional information may be required, as determined by the zoning administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed solar energy project from potentially sensitive locations as deemed necessary by the zoning administrator to assess the visual impact of the project, aerial image or map of the site, and additional information that may be necessary for a technical review of the proposal. The planning commission or board of supervisors may also require other relevant information deemed to be necessary to evaluate the application.
3. A landscaping and screening plan that addresses the vegetative buffering required, including the use of existing and newly installed vegetation to screen the facility. The plan also must address the use of pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs, and wildflowers in the project area and in the setbacks and vegetative buffering.
4. The following materials relating to environmental and cultural resources shall also be submitted:



- a. A report by the Virginia Department of Historic Resources Virginia Cultural Resource Information System must be submitted to identify historical, architectural, archeological, or other cultural resources on or near the proposed facility.
  - b. A copy of the cultural resources review conducted in conjunction with the state Department of Historic Resources for the Department of Environmental Quality permit by rule process. This report shall be in addition to the report required in subsection (a) above and shall further identify historical, architectural, archeological, or other cultural resources on or near the proposed site.
  - c. A report on the potential impacts on wildlife and wildlife habitats at the site and within a two-mile radius of the proposed facility using information provided by the Department of Game and Inland Fisheries or a report prepared by a qualified third party.
  - d. A report on potential impacts on pollinators and pollinator habitats at the site, including but not necessarily limited to the submission of a completed solar site pollinator habitat assessment form as required by the zoning administrator.
  - e. A glint and glare study that demonstrates 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. The study will assess and quantify potential glint and glare effects and address the potential health, safety, and visual impacts associated with glint and glare. Any such assessment must be conducted by qualified individuals using appropriate and commonly accepted software and procedures.
  - f. Copy of any agreement between the utility, landowner, and applicant that grants permission to connect to the electrical system.
5. The zoning administrator may accept an application for processing in situations in which some or all of the materials in subsection 4 are unavailable. For utility-scale solar generation facilities less than fifteen (15) megawatts in size, the zoning administrator may waive this requirement if it is reasonably expected to be waived in the Department of Environmental Quality permit-by-rule process. However, the final decision whether to act upon, grant, deny, or condition a special exception notwithstanding these materials not being included in the application lies with the board of supervisors.
  6. The County may retain qualified third parties to review and inspect the permit applications and construction activities of utility-scale solar generation facilities that are outside the County's areas of expertise. Any out-of-pocket costs incurred by the County for such review and or inspections by qualified third parties shall be paid by the applicant. The third-party reviewers, inspectors and their estimated costs will be submitted to the applicant for approval before the costs are incurred. The County may, in the alternative, accept such review by qualified third parties that are selected, retained, and paid by the applicant.

*923.05. Development standards for utility-scale solar generation facilities.* The following development standards apply to all utility-scale solar generation facilities:

1. Utility-scale solar facilities shall not exceed a maximum lot coverage of 50 acres under panel.
2. Utility-scale solar generation facilities shall not be located in the flood hazard overlay district as provided in section 714.



3. A utility-scale solar facility shall not be located within one (1) miles of any other existing utility-scale solar facility.

a. For purposes of spacing, distances shall be measured from panel to panel.

41. The facility shall use only panels that employ anti-glare technology, anti-reflective coatings, and other available mitigation techniques, all that meet or exceed industry standards, to reduce glint and glare. The applicant shall provide written certification from a qualified expert acceptable to the county that the facility's panels incorporate and utilize anti-glare technology and anti-reflective coatings and reduce glint and glare to levels that meet or exceed industry standards. The board of supervisors may impose conditions requiring that through project siting and proposed mitigation the solar project minimizes impacts on viewsheds, including from residential areas and areas of scenic, historical, cultural, archeological, and recreational significance.
53. Utility-scale solar generation facilities must comply with generally accepted national environmental protection and product safety standards for the use of solar panels and battery technologies for solar photovoltaic (electric energy) projects, such as those developed for existing product certifications and standards including the National Sanitation Foundation/American National Standards Institute No. 457, International Electrotechnical Commission No. 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No. 61730-2. A final site plan must reference the specific safety and environmental standards complied with.
64. The project area must be set back a distance of at least one hundred fifty (150) feet from all property lines. Exceptions may be made for adjoining parcels that are owned by the applicant.
75. The project area must be enclosed by security fencing not less than six (6) feet in height and equipped with appropriate antilimbing device such as strands of barbed wire on top of the fence. Fencing must be installed on the interior of the vegetative buffer required so that it is screened from the ground level view of adjacent property owners. The fencing must be maintained at all times while the facility is in operation.
86. A vegetative buffer sufficient to mitigate the visual impact of the facility is required. The buffer must consist of a landscaping strip at least forty (40) ~~fifteen (15)~~ feet wide, located within the setbacks required in subsection 3 above, and must run around the entire perimeter of the project area. The buffer must consist of existing vegetation and, if deemed necessary for the issuance of a special exception, an installed landscaped strip consisting of multiple rows of staggered trees and other vegetation. This buffer should be made up of plant materials at least three (3) feet tall at the time of planting and that are reasonably expected to grow to a minimum height of eight (8) feet within three (3) years. Non-invasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs and wildflowers must be used in the vegetative buffer. Fencing must be installed on the interior of the buffer. Existing trees and vegetation may be maintained within such buffer areas except where dead, diseased or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy landscaping requirements as applicable. If existing trees and vegetation are disturbed, new plantings shall be provided for the buffer. The buffer must be maintained for the life of the facility.
97. The project area must be seeded with appropriate pollinator-friendly native plants, shrubs, trees, grasses, forbs, and wildflowers. The project area must be seeded promptly following completion of construction in such a manner as to reduce invasive weed growth and sediment in the project area. The owners and operators



also are required to install pollinator-friendly native plants, shrubs, trees, grasses, forbs, and wildflowers in the setbacks and vegetative buffering.

108. Ground-mounted solar energy generation facilities may not exceed a height of twenty (20) feet, which shall be measured from the highest natural grade below each solar panel. This limit does not apply to utility poles and the interconnection to the overhead electric utility grid that meet State Corporation Commission requirements.

119. Lighting must be limited to the minimum reasonably necessary for security purposes and shall be designed to minimize off-site effects. Lighting on the site shall be dark sky-compliant.

~~1210.~~ Large Utility scale solar energy facilities may not be located within one (1) mile of an airport unless the applicant submits, as part of its application, written certification from the Federal Aviation Administration that the location of the facility poses no hazard for, and will not interfere with, airport operations.

~~1311.~~ Applicants for new utility-scale solar generation facilities 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. The incident response plan, all aspects of which are paid for by the applicant, must ensure that local responders have the necessary equipment and training to effectively handle emergencies.

a. Emergency personnel will be given a key or code to access the property in case of an on-site emergency.

~~1412.~~ In approving conditions on a special exception, the board of supervisors may expand, waive, or modify the requirements of this section, but it may not waive subsections 3 and 11.

*923.06. Considerations on issuing special exception.* The board of supervisors may impose conditions reasonably designed to mitigate the impacts of a solar generation facility where permitted only by special exception. Conditions on such a special exception may include requirements for (i) dedication of real property of substantial value to the county or one (1) of its instrumentalities or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of the special exception, so long as such conditions are reasonably related to the project. In considering any application for a special exception for a utility-scale solar generation facility, the board of supervisors shall consider the following matters in addition to those otherwise provided in this Appendix:

1. The topography of the site and the surrounding area;
2. The proximity of the site to, observability from, and impact on urban and residential areas;
3. The proximity of the site to, observability from, and impact on areas of historical, cultural, and archaeological significance;
4. The proximity of the site to other ~~large-~~ utility scale solar energy facilities, other energy generating facilities, and utility transmission lines;
5. The proximity of the site to, observability from, and impact on areas of scenic significance, such as scenic byways, vistas, and blueways;
6. The proximity of the site to, observability from, and impact on public rights-of-way, including, but not limited to, highways, secondary roads, streets, and scenic byways;
7. The proximity of the site to, observability from, and impact on recreational areas, such as parks, battlefields, trails, lakes, rivers, and creeks;



8. The proximity of the site to airports;
9. The preservation and protection of wildlife and pollinator habitats and corridors;
10. The proximity of the site to any urban planning area, community planning area, or environmentally or culturally sensitive area identified in the comprehensive plan;
11. The size of the site;
12. The proposed use of available technology, coatings, and other measures for mitigating adverse impacts of the facility;
13. The preservation and protection of prime farmland in the county;
14. With regard to any cash payments or in-kind contributions, the impact of the project on probable future uses of the land if not developed with a solar farm, including any changes in future tax revenues; investments in infrastructure for other types of development that may have occurred in the area, and would be of lesser utility; and the provisions of a siting agreement under Code of Virginia, § 15.2-2316.6 et seq., as amended; and
15. Such other matters as the board of supervisors may deem reasonably related to the application or its impacts.

923.07 Comprehensive Plan (2232) Review. The Comprehensive Plan review shall be based on the Special Exception Application Form and Concept Plan. The Code of Virginia §15.2-2232 requires a review of public utility facility proposals by the Planning Commission to determine if their general or approximate location, character, and extent are substantially in accord with the Comprehensive Plan or part thereof.

a. The Planning Commission must consider, at a public meeting, whether the project is in substantial accord with the Comprehensive Plan. Failure of the Planning Commission to act within 60 days of a submission, unless the time is extended by the Board of Supervisors, shall be deemed approval.

i. If the Planning Commission approves the 2232 review, the project shall be recommended for a public hearing for the special exception permit.

ii. If the Planning Commission does not approve the 2232 review, the applicant may appeal the decision to the Board of Supervisors within 10 days after the decision of the Planning Commission. The appeal shall be by written petition to the Board of Supervisors setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing unless the time is extended by the applicant. A majority vote of the Board of Supervisors shall overrule the Planning Commission.

b. If the Board of Supervisors agree to negotiate a Siting Agreement in accordance with Code of Virginia § 15.2-2316.8, the 2232 review process may be delayed until negotiations are complete.

*923.078. Special provisions for smaller utility-scale solar generation facilities and agricultural solar generation facilities.* The zoning administrator may exempt applications for facilities smaller than four (4) acres with a rated capacity equal to or less than 1.5 megawatts (MW) that are allowed by-right from some or all of the requirements of Section 923.05. For such applications that require a special exception, the zoning administrator may exempt such facility from some or all of the application requirements of Section 923.06 as well. However, the final decision on all exemptions from requirements of facilities requiring a special exception lies with the board of supervisors.



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***Article X. – Surety for decommissioning of a utility-scale solar generation facility.***

**1011. Surety for decommissioning of a utility-scale solar generation facility.**

*1011.01. Definitions.* As used in this section, unless the context requires a different meaning:

*Decommission* means the removal and proper disposal of solar energy equipment, facilities, or devices related to a utility-scale solar energy facility. The term includes the reasonable restoration of the real property, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

*Solar energy equipment, facilities, or devices* means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

*1011.02. Decommissioning plan.* A site plan for a utility-scale solar generation facility shall include a detailed decommissioning plan that provides procedures and requirements for removal of all parts of the solar energy generation facility and its various structures at the end of the useful life of the facility or if it is deemed abandoned. The plan shall include the anticipated life of the facility, the estimated overall cost of decommissioning the facility in current dollars, the methodology for determining such estimate, and the manner in which the project will be decommissioned. The decommissioning plan and the estimated decommissioning cost will be updated upon the request of the zoning administrator or as provided in the agreement provided for in subsection 1011.03, provided that the update shall be at least be every five (5) years. ~~no more frequently than once every five (5) years and no less frequently than once every ten (10) years.~~ The disposal of all panels and related equipment shall be taken to a facility that can accept the materials and shall meet all local, state and federal regulations. The owner shall work with County staff to ensure the decommissioned project is recycled through local, state, and federal best practices.

*1011.03. Surety for decommissioning.* As a condition of the approval of a site plan for a utility-scale solar generation facility, the owner, lessee, or developer of the project (the "responsible party") shall enter into a written project development agreement with the county, setting forth, at a minimum, that (i) if the facility ceases generating electricity for more than twelve (12) consecutive months, the responsible party will provide for its decommissioning; (ii) if the owner, lessee, or developer defaults in the obligation to decommission the facility, the county has the right to enter the real property without further need of consent of the owner to engage in decommissioning; and (iii) the responsible party provides financial assurance of such performance to the county in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee. The amount of the financial assurance shall be based upon an estimate by a professional engineer licensed in the Commonwealth, who is engaged by the responsible party, who has experience in preparing decommissioning estimates and is approved by the county. The estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.



**§ 2. That this ordinance shall be in force and effect upon adoption.**

Adopted this 19<sup>th</sup> day of March 2024.



Drew Wade, Chair  
Amherst County Board of Supervisors

**Member**

**Vote**

Drew Wade., Chair .....	<u>aye</u>
Claudia D. Tucker, Vice-Chair .....	<u>aye</u>
David W. Pugh, Jr.....	<u>aye</u>
Tom Martin .....	<u>aye</u>
Chris Adams .....	<u>aye</u>

**ATTEST:**



Jeremy S. Bryant, Clerk  
Amherst County Board of Supervisors



