

## AMENDMENT

### Chapter 86 - LAND DEVELOPMENT REGULATIONS

## “Utility Scale Solar Generation Facilities”

This amendment is to provide options the Board may use to guide utility-scale solar generation facilities; and includes changes as follows: to clarify the intent, requirements, conditions and procedures for issuance of conditional use permits; to place a restriction on the total amount of County acreage approved for utility scale solar generation facilities; to guide development sites within a certain distance of existing high-voltage transmission or distribution line rights-of-way; to restrict facilities in certain Growth Area Overlay Districts; to add performance requirements and criteria for application compliance; to include the applicant obtaining an independent engineer to inspect and report on construction progress; to require submittal of a construction bond; to establish phasing requirements for land disturbing activities; to require additional setbacks and vegetative buffers; to clarify provisions for waivers and modifications that may be granted; to prohibit the disposal of solar panels at any Louisa County landfill facility; and to remove estimated salvage value as contributing to estimated decommissioning costs. **THESE AMENDMENTS TO REQUIREMENTS FOR SOLAR GENERAL FACILITIES APPLY THROUGHOUT ALL OF LOUISA COUNTY;** and are pursuant to Va. Code §§ 15.2-2285 and 15.2-2286.

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#### Sec. 86-13. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where terms are undefined, they shall have their ordinarily accepted meaning, or such as the context may imply.

*Generally.* The words "used for" include "designed for," and vice versa; the word "building" includes the word "structure"; the word "dwelling" includes the word "residence"; and the word "lot" includes the word "plot." Any words pertaining to gender shall be interchangeable. The word "he" shall mean "she," and "she" shall mean "he." The word "shall" is mandatory; the word "may" or "should" is permissive.

*Solar generation facility, small-scale.* An onsite solar energy conversion system producing not more than 30 kW of electricity. Small-scale solar energy systems generally reduce onsite consumption of utility power for agricultural and residential applications. Onsite may include adjacent parcels under common use, ownership, and control. Rooftop mounted arrays do not require zoning approvals (related Code of Virginia, § 15.2-2288.7). Ground mounted arrays require zoning approval as accessory structures.

*Solar generation facility, minor-scale.* An onsite solar energy conversion system producing less than two MW of electricity. Minor-scale solar energy conversion systems generally reduce onsite consumption of utility power for civic, commercial and industrial applications. Onsite may also include adjacent parcels under common use, ownership, and control. Rooftop mounted arrays do not require zoning approvals (related Code of Virginia, § 15.2-2288.7). Ground mounted arrays require zoning approvals as accessory structures.

*Solar generation facility, utility-scale.* A solar energy conversion system producing a minimum of two or more of electricity to a utility provider. Such facilities interconnect with an existing electrical grid serving other facilities which are not adjacent or under common use, ownership or control.

*Article I. General Provisions*  
*DIVISION 5. CONDITIONAL USE PERMITS*

Sec. 86-43. Intent, Requirements, conditions and procedures.

- (a) Where so listed in the district regulations of the zoning district where the use is located, in addition to the zoning permit, certain uses shall require a conditional use permit approved by the governing body. These permits shall be subject to such conditions as the governing body deems necessary to carry out the intent of this chapter.
- (b) In determining imposed conditions, the governing body shall take into consideration the intent of this chapter and may impose reasonable conditions that:
  - (1) Abate or restrict noise, smoke, dust or other elements that may affect surrounding property.
  - (2) Establish setback, side and front yard requirements necessary for orderly development and to prevent traffic congestion.
  - (3) Provide for adequate parking and ingress and egress to public streets or roads.
  - (4) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered detrimental to adjoining property.
  - (5) Tend to prevent such use from changing the character and established pattern of development of the community.
- (c) No such conditional use permit may be granted except after report and recommendation by the county Planning Commission and after notice and hearing as provided for amendment of this chapter in Code of Virginia, § 15.2-2204.
- (d) Any use, building or activity legally in existence on the effective date of this chapter, or for which a building permit was issued prior to the effective date of this chapter, shall not require a conditional use permit, so long as such existing use, building or activity is not substantially expanded or enlarged beyond the extent of its operation on the effective date of this amendment.
- (e) The governing body may refuse to issue, change and may revoke, a conditional use permit if, in its opinion, the proposed activity will be detrimental to the health, safety and general welfare of the public, is not compatible with the surrounding area, or fails to conform to local and state laws.
- (f) A complete application with all associated application fees shall be required prior to review of any conditional use.
- (g) Upon the denial by the board of supervisors of any application filed pursuant to this section, substantially the same application shall not receive reconsideration within 12 months of the date of denial.

Sec. 86-44. Application for conditional use permit for public water or sewer system where required by zoning district regulations.

- (a) Conditional use permits are required for any sewer system designed to have a point source discharge, regardless of its zoning district, use, or other classification.
- (b) For any sewer system required to have a conditional use permit under the requirements of this section, a conceptual plan of the proposed system prepared by a licensed professional engineer must be submitted with the conditional use permit application.
- (c) A conditional use permit application, when required by this section, may be combined and simultaneously processed with a rezoning, conditional use permit, substantial conformance determination or comprehensive

plan amendment application when otherwise required, and in such circumstance will not require an additional application fee.

### Sec. 86-45. Conditional use permits for minor or utility-scale solar generation facilities.

In order to preserve and protect the counties rural ambiance and its agricultural and forestal lands, the Board made a determination that the total approved utility-scale solar generation facilities shall not exceed 3 percent of total county acreage or 9,800 acres (current approved facilities total 5,053 acres). Siting agreements between the County and developer shall be required. In addition, such facilities may not locate more than a mile from existing high-voltage transmission or distribution line rights-of-way. Proposed facilities exceeding the one mile limitation shall receive consideration on a case-by-case basis and no such facilities are allowable in the R-1, R-2, IND, or I-1 Growth Area Overlay Districts. All references, within the conditional use and site development requirements, where the term "construction" is used, shall also mean "deconstruction" and "decommissioning;" and vice-versa.

### Sec. 86-46. Application requirements.

In addition to the requirements set forth in section 86-43, a conditional use permit application for a minor or utility-scale solar generation facility shall provide the following information:

- (1) Project narrative:
  - a. Identify the applicant, facility owner, site owner, and operator, known at the time of application and provide property control or ownership documentation via lease, purchase option or deed.
  - b. Describe the project including an overview, its location, years of operation; site area in acres; current site use; the projects compatibility with its surroundings and conformance to the adopted county comprehensive plan.
  - c. Address any impacts to nearby cultural/historical features.
  - d. Explain setbacks, vegetated buffers, landscaping and the use of pollinator-friendly and wildlife-friendly native planting areas.
  - e. Describe the existing and proposed access roads serving the project and address construction traffic management and control.
  - f. Give construction and deconstruction hours of operation and address maximum noise levels and mitigation.
  - g. Describe any glint or glare produced by the solar panels and any necessary mitigation measures needed.
  - h. Estimated times for construction and operations commencement.
  - i. Maximum electricity generation capacity.
  - j. Approximate number and representative type, and expected footprint of solar equipment under construction, including numbers and types of photovoltaic panels; ancillary facilities.
  - k. Where and how the transmission of electricity generated at the facility will occur, including the proposed location of electric grid interconnection.
  - l. Applicant to submit a copy of the PJM Interconnection Application with the CUP application. PJM Interconnection LLC (PJM) is a regional transmission organization (RTO) in the United States. It is part of the Eastern Interconnection grid operating an electric transmission system serving all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia.
- (2) Concept development plan:
  - a. Show property and setback lines.

- b. Provide an area map showing the proposed site within a five-mile radius.
  - c. Identify any prominent landmarks and physical features on the property.
  - d. Show locations and heights of existing and proposed buildings, structures, and other improvements, including preliminary locations of proposed solar equipment.
  - e. Proposed locations of stormwater facilities.
  - f. Locate any proposed battery storage describing its type, dimensions, capacity, and certifications while addressing the threat of possible fires. The battery storage location shall be on the solar panel side of the buffer; and meet or exceed all approved site setback and buffer requirements. A fire suppression plan must be submitted that either addresses ingress and egress for continued fire suppression purposes or an external Fire Department Connection (FDC) must be provided for review and approval by the Fire Chief.
  - g. Show existing and proposed access roads, permanent entrances, temporary construction entrances, drives, turnout locations, cemetery locations and access and parking, written confirmation from the Virginia Department of Transportation (VDOT) that all entrances satisfy applicable VDOT requirements;
  - h. Fencing to ensure public safety.
  - i. Inverter locations.
  - j. Identify areas where sufficient vegetative buffering exists or needs supplemental plantings, or new vegetation, and areas where pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs, and wildflowers shall be planted following Virginia Pollinator-Smart Program best practices. All such vegetative areas shall require maintenance and replacement of dead or dying as necessary throughout the life of the project.
  - k. The extent of existing already known wetlands and woodlands on the property.
  - l. Identification of predominant soil types of those lands.
  - m. Identification of project parcels located in a designated growth area as shown in the currently adopted county comprehensive plan.
  - n. Identify any project parcels located in or immediately adjacent to an approved agricultural and forestal district.
  - o. Provide scaled elevation views and simulations of proposed vegetative buffers at planting, and over five-, ten- and 20-year periods, to assess their effectiveness in reducing visual impacts as taken from adjacent public rights-of-way and dwellings.
  - p. Location of existing cemeteries, protection measures and access.
  - q. The zoning administrator or planning commission or board of supervisors may also require other relevant information including mitigation plans in order to fully evaluate the application.
- (3) Transportation and traffic control plan:
- a. The applicant or project owner shall prepare and submit such a plan to the Virginia Department of Transportation (VDOT) and the county for review and approval. Such plan shall address the following:
    - 1. Directing employee traffic and delivery traffic to specific roadways to access the property to minimize conflicts with local traffic patterns.
    - 2. Lane closures, flagging procedures, directional and informational signage.
    - 3. Designated routes for employees, deliveries of equipment and materials on secondary roads to the property.

4. Designated delivery and parking areas.
  5. Dust control and mitigation, using water trucks, mulch, or similar methods.
  6. Measures necessary to prevent deposits of soil and mud onto adjacent roads from construction-related traffic.
  7. A pre- and post-construction road evaluation, and any necessary repairs to the public or private roads damaged by the project. If a traffic issue arises during the construction of the project, the applicant or project owner shall develop, with input from the county and VDOT, and complete appropriate measures to mitigate the issue.
- (4) Cultural/historical plan:
- a. The applicant shall provide a phase IA cultural resource assessment of the projects general impacts prepared by a Virginia qualified environmental professional. Such report shall contain a Virginia Cultural Resource Information System (VCRIS) desktop survey of the facility's property, and applicable documentation from the Virginia Department of Environmental Quality, (DEQ), Department of Historic Resources (DHR), Department of Wildlife Resources (DWR), and the department of conservation and recreation (DCR).
  - b. At a minimum the desktop survey scope shall encompass the proposed site and all property within one mile and include previously performed surveys.
  - c. Provide an environmental context.
  - d. A cultural context description.
  - e. Assessment results.
  - f. Conclusions and recommendations.
  - g. A list of resources used and references.
- (5) Economic plan:
- a. Any expected change in the value of the subject property,
  - b. Expected employment during the construction of the facility,
  - c. Any expected impact on the county's tax revenues,
  - d. The estimated costs to the county associated with the facility in the form of additional services,
  - e. Information on any other economic benefits or burdens from the project, and
  - f. Address the financial impact to the county regarding Fire and EMS, including the cost of training and additional equipment and supplies for fighting battery storage fires if applicable.
- (6) Landscaping and buffering plan:
- a. The plan shall address the vegetative buffering required, including the use of existing and newly installed vegetation necessary to buffer the facility from view. Such vegetative buffers shall be a minimum of 300 feet surrounding all utility-scale solar projects. Supplemental plantings must reach a minimum height canopy of 20 feet within 10 years. The plan also must address the use and maintenance 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 following the Virginia Pollinator-Smart Program best practices.
- (7) The Board of Supervisors may grant a conditional use permit for any solar photovoltaic project that may include:
- a. Dedication of real property of substantial value or

- b. Substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project. (Code of Virginia, § 15.2-2288.8).
- (8) All references, within the conditional use and site development requirements, where the term “construction” is used, shall also mean “deconstruction” and “decommissioning;” and vice-versa.

#### Sec. 86-47. Community meeting requirement.

The applicant shall hold a public community meeting prior to the planning commission's public hearing with the planning commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed facility 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 but no more than 14 days in advance of the meeting.
- (2) The applicant shall advertise the meeting notice in a newspaper of record in the county giving the meetings date, time and location at least seven but no more than 14 days, in advance of the meeting date.
- (3) The meeting shall take place within the county, at a location open to the 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 and any responses.

#### Sec. 86-48. Filing fees.

The appropriate fee shall be paid at the time of submission of any application for permit, review or hearing required by this chapter, in accordance with the schedule of fees as adopted by the board of supervisors from time to time.

#### Sec. 86-49. Effects of conditions.

Once proffered and accepted as a part of an amendment to the zoning ordinance and/or the zoning map, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue in full force and effect if the subsequent amendment is a part of a comprehensive implementation of a new or substantially revised zoning ordinance. All such conditions shall be in addition to the regulations provided for the district by the ordinance.

#### Sec. 86-50. Enforcement of conditions.

Enforcement of conditions accepted and imposed by ordinance as provided in section 86-49 shall be the responsibility of the zoning administrator or designee subject to the provisions of state law (Code of Virginia, § 15.2-2286).

#### Sec. 86-51. Conflicting ordinances, statutes and regulations.

- (a) Whenever any section or provision of this chapter or of any regulation adopted under the authority thereof requires a greater width or size of yards, courts or other open spaces; requires a lower height of building or less number of stories; requires a greater percentage of lot to be left unoccupied; or imposes other higher standards than are required in any state statute or other county ordinance or regulation, the provision of this chapter or of the regulation adopted under the authority thereof shall govern.

- (b) Whenever any section or provision of any state statute or other county ordinance or regulation requires a greater width or size of yards, courts or other open spaces; requires a lower height of building or less number of stories; requires a greater percentage of lot to be left unoccupied; or imposes other higher standards than are required by any section or provision of this chapter or of any regulation adopted under the authority thereof, the provisions of such state statute or other county ordinance or regulation shall govern.

## *Article IV. Supplementary Regulations*

### *DIVISION 2. SOLAR GENERATION FACILITIES*

Sec. 86-631. Performance standards for small-scale solar generation facilities.

(a) Rooftop facilities do not require zoning applications but do require building permits and inspections.

(b) Ground mounted facilities require zoning applications and building permits and inspections. Such facilities are permissible as an accessory use in agricultural and residential zoning districts when meeting the requirements of this section.

(1) An application for a ground mounted small-scale solar generation facility considered an accessory use shall include the following information:

a. Compliance 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 Electro technical Commission No. 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No. 61730-2.a.

b. Site and elevation drawing. A drawing to scale illustrating the location of the principal building, accessory structures, and proposed ground location of solar panels including elevations showing the height and orientation of ground mounted components, setbacks/yards and existing or planned vegetative buffering or screening.

c. Setbacks. The ground mounted components shall be setback at least 30 feet from all from adjacent property lines, 100 feet from abutting public rights-of-way, and behind a principle building

d. Heights. Heights of ground mounted collectors and mounts shall not exceed 12 feet in height when oriented to maximum tilt.

e. Buffers. Ground mounted components shall be buffered from view by using one of the following options:

1. The Zoning Administrator shall make a determination regarding buffering requirements for solar panel projects on a case by case basis by considering the size of the parcel, its topography, distance from neighbors, adequacy of existing mature vegetation, and any planned ~~vegetation~~ evergreen plantings. Which buffer, if any required, plantings shall consist in a single row at 12-foot centers and have a minimum height of three (3) feet when installed.

2. Maintenance of required buffers shall continue until the facility ceases its operation and removal of all equipment occurs.

Sec. 86-632. Performance standards for minor and utility-scale solar generation facilities.

(a) *Performance requirements.* Applications shall comply with the following criteria:

- (1) *Project liaison.* The operator shall designate at least one public liaison, publicize a toll-free phone number, email address for communication with the liaison during construction, and post it on a temporary sign at each access. The operator shall at a minimum, publish this information on the operator's website and provide county staff with the same information for publication on the county's website and other social media. The liaison shall act as a point of contact between citizens and construction crews. The liaison shall be available in person and by phone during active construction hours and shall respond to any questions related to the facility or property within 24 hours. The liaison role shall commence at the initial pre-construction meeting. The public liaison shall prepare a monthly report detailing any complaints, complaint date, resolution, and resolution date of any inquires. A copy of the report shall go to the zoning administrator on the first business day of each month throughout the construction period and an additional six months following issuance of the final occupancy permit or equivalent from the county for the facility.
- (2) *Independent engineer.* The applicant shall pay an independent engineer, licensed by the commonwealth, to check construction progress weekly and ensure construction is proceeding in accordance with the terms of the CUP. The engineer will resolve any construction problems by mutual agreement between the applicant, engineer and county staff. The Board of Supervisors will decide any unresolved disputes. Construction activity may halt during the time it takes to bring the issue to the Board for resolution.
- (3). *Construction bond.* The applicant shall post a bond with the county sufficient to ensure compliance with the construction requirements of the CUP as determined by staff. The bond must be posted at the time the building permit is issued or the site plan is approved, and shall be released upon completion of construction upon certification by the independent engineer or the zoning administrator the construction has been built in compliance with the CUP.
- (4) *Erosion and sediment control.* Site clearing shall not exceed 100 acres for each phase of development. Sediment control features shall receive county approval on each phase by phase basis before beginning any land disturbance or construction activities. Applicants to obtain a written report from either an independent engineer or the zoning administrator determining the stabilization of each phase of construction. Once this determination is made another phase of land disturbance activities can begin.
- (5) *Visual impacts.* The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on view sheds, including from residential areas and areas of scenic, historical, cultural, archeological, and recreational significance. The facility shall utilize 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, reduce glint, and glare to levels that meet or exceed industry standards.
- (6) *National standards.* Projects 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 existing product certifications and standards include the National Sanitation Foundation/American National Standards Institute No. 457, International Electro technical Commission No. 61215-2, Institute of Electrical and Electronics Engineers Standard 1547, and Underwriters Laboratories No. 61730-2. A site development plan shall reference the specific safety and environmental standards met.
- (7) *Setbacks.* The project area shall be set back a distance of at least 300 feet from all abutting public rights-of-way and main buildings on adjoining parcels, and from adjacent property lines. Exceptions to this distance are possible for adjoining parcels owned or leased by the applicant. Increased setbacks over 300 feet and additional buffering may be included in the conditions for a particular permit. Access,

erosion and stormwater structures, and interconnection to the electrical grid is allowable through setback areas if such are generally perpendicular to the property line or underground.

- (8) *Security fencing.* Such fencing shall enclose the project area not less than six feet in height and equipped with appropriate anticlimbing device such as strands of barbed wire on top of the fence. The fencing shall go on the interior of the required vegetative buffer in order to screen it from the ground level view of adjacent property owners. Continual maintenance of the fencing shall occur while the facility is in operation.
- (9) *Opaque vegetative buffers.* Vegetative buffers sufficient to mitigate the visual impact of the facility is required as follows:
  - a. The buffer shall consist of a landscaping strip at least 300 feet wide, shall be located within the setbacks required and shall circle the entire perimeter of the property. In no case shall such buffers contain stormwater holding ponds.
  - b. Within the buffer area there shall be sufficient existing vegetation and trees to create an opaque visual barrier to screen the project area from view. If no such barrier exists then the applicant shall establish this landscaped strip consisting of four rows of staggered evergreens ten feet apart and on 15-foot centers. Such trees shall be at least five feet tall at the time of planting and expected to grow to a minimum height of 20 feet within 10 years.
  - c. The planning commission or board of supervisors may require increased setbacks and additional or taller vegetative buffering in situations where the height of structures or topography affects the visual impact of the facility. Planting of non-invasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs and wildflowers shall occur in the vegetative buffer following Virginia Pollinator-Smart Program best practices.
  - d. On-going maintenance of existing trees and vegetation in the buffer is a requirement for the life of the facility. The removal of dead or diseased trees necessary to promote healthy growth or other trees which may impact operations as approved in advance by the zoning administrator. Trees removed from the buffer shall be replaced by planting a similar tree in the buffer at least five-foot tall.
  - e. Following completion of construction the pollinator-smart designated area of the project area shall receive prompt seeding with appropriate pollinator-friendly native plants, shrubs, trees, grasses, and wildflowers and in such a manner as to reduce invasive weed growth and trap sediment within the project area. At the beginning of the next planting season over-seed the project area, setbacks and buffers with appropriate pollinator-friendly native plants, shrubs, trees, grasses, forbs and wildflowers, following Virginia Pollinator-Smart Program best practices or any such other program as approved by county staff in consultation with the Department of Environmental Quality native plant finder system. Once established, mowing of the pollinator habitats shall occur after the end of every migratory season in order to reseed these areas. The intent of this provision is to ensure at least ten percent of the total acreage of the facility is cultivated in such a manner to encourage pollinator habitats in order to help maintain the rural, agricultural nature of the county.
  - f. The planning commission may recommend waiving or altering the vegetative screening and/or buffer requirements when the applicant proposes to preserve existing wetlands or woodlands, as long as the wetlands or woodlands receive protection and it serves as a buffer.
- (10) *Heights.* Ground-mounted solar energy generation facilities shall not exceed a height of 12 feet, measured from the highest natural grade below each solar panel. This limit shall not apply to utility poles and the interconnection to the overhead electric utility grid that meet state corporation commission requirements.
- (11) *Lighting.* Lighting shall be limited to the minimum reasonably necessary for security purposes and shall minimize off-site effects. Lighting on the site shall be Dark Sky compliant.

- (12) *Airport proximity.* These facilities shall not be located within one 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 to or interfere with airport operations.
- (b) *Waivers and modifications.* In issuing any conditional use permit for a utility-scale solar generation facility, the board of supervisors may waive or modify any of the requirements of subsection (a) above and shall consider the following matters in addition to those otherwise provided in this chapter:
- (1) The topography of the site and the surrounding area.
  - (2) The proximity of the site to, observability from, and impact on agricultural, rural and developed residential areas.
  - (3) The proximity of the site to, observability from, and impact on areas of historical, cultural, and archaeological significance including cemeteries.
  - (4) The proximity of the site to other large 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 rural planning area or community planning area identified in the currently adopted comprehensive plan.
  - (11) The size of the site in acres.
  - (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) Such other matters as the planning commission or the board of supervisors may deem reasonably related to the application or its impacts.
- (c) *Conditions.* The board of supervisors may impose conditions reasonably designed to mitigate the impacts of the facility. Such conditions may include requirements for:
- (1) Dedication of real property of substantial value to the county or one of its instrumentalities, or
  - (2) Substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of the conditional use permit, so long as such conditions are reasonably related to the project.
- (d) All references, within the conditional use and site development requirements, where the term “construction” is used, shall also mean “deconstruction” and “decommissioning;” and vice-versa.

### Sec. 86-633. Decommissioning of utility-scale solar generation facilities.

- (a) The project shall be deconstructed and removed within 12 months after the project sites are permanently decommissioned. As used herein "deconstructed and removed" shall mean:

- (1) The removal from the surface of the property, any project facilities and appurtenances installed or constructed thereupon, including permanent foundations, however, during the course of deconstruction, structural members three feet or more in the ground which break off shall be abandoned in place.
  - (2) The filling in and compacting of all trenches or other borings or excavations made in association with the project, (iii) the removal of all debris caused by the project from the surface of the property, (iv) performing and providing a phase II environmental site assessment report of the site to the county. The project owner or operator shall provide to the zoning administrator a report detailing compliance with all of conditional use permit requirements required for decommissioning.
  - (3) Prohibited is the disposal of solar panels in any of the county's landfill facilities.
  - (4) County staff will review the provided decommissioning report for approval or denial. If denied, a list of corrective actions will be provide to the project owner or operator. At the completion of decommissioning the properties be ready for agricultural or forestal use preserving and protecting the county's rural and agricultural character. 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
    - a. Soil stabilization, and
    - b. Revegetation of the ground cover of the real property disturbed by the removal of such equipment, facilities, or devices, and
    - c. The preparation and submittal to the county of a phase II environmental site assessment report of the property.
- (b) A site development plan for a minor or 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 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 (c), provided the update shall be no more frequently than once every five years and no less frequently than once every ten years.
- (c) As a condition of the approval of a site development plan for a minor or 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:
- (1) If the facility ceases generating electricity for more than 12 consecutive months, the responsible party will provide for its decommissioning;
  - (2) 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;
  - (3) 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 as approved by the county attorney, and
  - (4) The amount of the financial assurance based upon an estimate by a professional engineer licensed in the commonwealth, engaged for and paid by the responsible party, who has experience in preparing decommissioning estimates, and approved by the county.
  - (5) The amount of the surety required shall be 100% of the estimated decommissioning costs. Any solar panels, steel, aluminum, copper, fenceposts, fencing, or other material removed from the facility as part

of decommissioning shall be taken out of Louisa County by the owner, lessee, or developer. None of the estimated salvage value of any of this material shall be used to offset the decommissioning costs.

- (6) All references within the conditional use permitting and site development requirements, where the term "construction" is used, shall also mean "deconstruction" and "decommissioning;" and vice-versa.