

Proposed amendments to PCC § 35-141.(C) UTILITY SCALE SOLAR ENERGY FACILITY, PCC § 35-141.(D) PERMITTING REQUIREMENTS FOR LARGE SCALE AND UTILITY SCALE SOLAR ENERGY FACILITIES and PCC § 35-141(E) Decommissioning Requirements for Large and Utility Scale Solar Energy Facilities.

#### SEC. 35-141.(C) UTILITY SCALE SOLAR ENERGY FACILITY

1. Utility-scale solar energy facilities shall be by Special Use Permit in the M-1 Industrial District, Light Industry zoning district and the M-2 Industrial District, Heavy Industry zoning district, and in the A-1 Agricultural zoning district.
2. Utility-scale solar energy facilities shall be located no more than 2 miles from an existing electrical transmission line.
3. Utility-scale solar energy facilities shall be located at least five (5) miles from any other utility scale solar energy facility.
4. Density of panel coverage over the entire site area shall be no more than seventy (70) percent.

#### SEC. 35-141.(D) PERMITTING REQUIREMENTS FOR LARGE SCALE AND UTILITY SCALE SOLAR ENERGY FACILITIES

3. A site plan meeting the requirements of Chapter 35, Article V, Division 4 Pittsylvania County Code, including the following additional information and details:
  - a) Property lines and setbacks as set out below, unless required setbacks are increased by the Board of Zoning Appeals as a condition of approval for a Special Use Permit.
    - i) All aspects and components associated with a solar energy facility shall be no less than one hundred fifty (150) feet from any property line. No setbacks are required between the property lines of parcels that are adjacent to each other and within the project area of a single project.

The project area shall be no less than two hundred (200) feet from the property line of any residential use located outside of the project area.

- b) Existing and proposed buildings and structures, including preliminary location(s) of the proposed solar equipment.
- c) Existing and proposed access roads, drives, turnout locations, and parking; however, this requirement shall not exceed VDOT requirements for other types of projects in the underlying zoning district.
- d) Location of substations, electrical cabling from the solar systems to the substations, ancillary equipment, buildings, and structures (including those within any applicable setbacks).
- e) Fencing, or other methods of ensuring public safety, in accordance with Section 35-121.

- f) Buffering as required based on the visual impacts of the project or as required by the Board of Zoning Appeals as a condition of approval for a Special Use Permit. Required buffers shall be placed or preserved between any required fencing and adjoining properties and/or adjacent rights-of-way. Buffering or vegetative screening shall include a minimum 15-foot-wide landscaped area comprised of any existing vegetation supplemented as needed with a staggered row of planted trees and large shrubs. The vegetation shall be evergreen and designed to be at least 15 feet in height at maturity of any new plantings and shall be a minimum of 6 feet in height at time of planting. Existing vegetation shall be maintained and supplemented with new plantings as needed to maintain required screening.
- g) 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, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

4. Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.

5. Document that the panels are located and installed so that the sum of the glare is directed away from an adjoining property or public rights of way.

6. The applicant shall provide proof of adequate liability insurance for a large and utility scale solar facility prior to issuance of a zoning or building permit.

#### **Sec. 35-141(E) Decommissioning Requirements for Large and Utility Scale Solar Energy Facilities**

The owner or operator of a large or utility scale solar energy facility shall completely decommission a facility within 12 months if the facility ceases to generate electricity for a continuous period of 12 months. This period may be extended by the Board of Zoning Appeals 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. 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. A decommissioning plan shall be submitted, which shall include the following: (1) the anticipated life of the project; (2) the estimated decommissioning cost in current dollars, not including a salvage or recyclable material value used to offset the decommissioning cost, provided in an itemized format by a Virginia Licensed Professional Engineer (PE); (3) how said estimate was determined; and (4) the manner in which the project will be decommissioned. As allowed by Section 35-714 of the Pittsylvania County Zoning Ordinance, the Board of Zoning Appeals shall require a bond with surety or other approved security to ensure compliance with conditions imposed in a Special Use Permit. The plan shall acknowledge that if at any time the project is declared to be an unsafe structure by the Pittsylvania County Building Code Official, the terms of the "unsafe structure" code shall apply. The surety instrument shall meet the following requirements:

- A. Cash or certified check from a federally insured financial institution, with a credit rating of Superior, or equivalent, from a recognized credit rating company, licensed to do business in the Commonwealth of Virginia, to be held in escrow by the County Treasurer, deposited in an interest-bearing bank account.
- B. An Irrevocable Letter of Credit from a federally insured financial institution, with a credit rating of Superior, or equivalent, from a recognized credit rating company, licensed to do business in the Commonwealth of Virginia and payable to the County in part or in full upon demand and receipt of a notice of forfeiture. Letter of credit shall be irrevocable unless replaced with cash or other form of security acceptable to the County.
- C. A surety or performance bond that renews automatically from a company registered and licensed to operate in the Commonwealth of Virginia, with a credit rating of Superior, or equivalent, from a nationally recognized rating company, and on the U.S. Department of Treasury's Listing of Certified Companies (Department of the Treasury Circular 570, as revised). Performance Bond must be payable to the County and maintained until decommissioning requirements are met. There must be a requirement and mechanism for the surety company to give prompt notice to the County of: (i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety; (ii) any attempt at cancellation by the owner; and (iii) any pending cancellation by the surety.
- D. An insurance policy that provides the County with acceptable rights as a beneficiary and is issued by an insurance carrier that has the authority to issue insurance policies in the County, and whose insurance operations are regulated and examined by a Federal or State Agency.

**Sec. 35-141(F) General Requirements for Large and Utility Scale Solar Energy Facilities**

1. The height of roof mounted large and utility-scale solar energy facilities shall not exceed the maximum height of other structures as permitted in the zoning district, and the maximum height of ground mounted facilities shall be 15 feet, as measured from the grade or base of the facility to its highest point,
2. Warning signage shall be placed on solar equipment and facilities to the extent appropriate. Solar equipment shall not be used for the display of advertising, except for reasonable identification of the photovoltaic equipment manufacturer or operator of the solar energy facility. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except as follows: (a) manufacturer's or installer's identification; (b) warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger. Educational signs providing information about the project and the benefits of renewable energy may be allowed as provided in Article II, Division 3 of the Pittsylvania County Zoning Ordinance.
3. All large and utility scale solar energy facilities shall utilize components which have a UL listing or equivalent and fully comply with all applicable building and electrical codes, and shall not generate or create electrical interruptions or interference with existing electrical or electronic uses.

4. All large and utility scale solar energy facilities shall comply with all applicable state and federal permitting and regulatory requirements.

5. All large and utility scale solar energy facilities must comply with the Pittsylvania County Noise Ordinance, but the requirements shall be no more stringent than for other development in the underlying zoning district.

### Sec. 35-141(G) Revenue Share for Solar Energy Projects

#### 1. Purpose, Definition, Relation to Other Ordinances.

- A. The purpose of this Section is to implement Va. Code Ann §58.1-2636 titled “Revenue Share for Solar Energy Projects” approved by the 2020 Regular Session of the Virginia General Assembly and signed into law by the Governor, effective July 1, 2020.
- B. Terms used in this Section shall have the defined meanings found in Va. Code Ann. §58.1-2636, 58.1-3660, 58.1-3507, or 58.1-3508.6, as amended.
- C. To the extent that the provisions of this chapter conflict with any other prior ordinance or provision of the Pittsylvania County Code, this chapter shall control.

#### 2. Applicability.

- A. This Section shall apply to all solar photovoltaic (electric energy) systems except those:
  - i. Described in §56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended;
  - ii. 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; or
  - iii. Five megawatts or less, as measured in alternating current (AC) generation capacity.
- B. This Section shall not apply to any solar photovoltaic (electric energy) project for which an application was filed with the County before July 1, 2020, unless:
  - i. The County and the applicant or owner agree to revise any existing voluntary payment agreement, or enter into any new voluntary payment agreement, under which the applicant or owner agree to voluntarily waive a portion of the exemption from machinery and tools tax as provided in Va. Code Ann §58.1-3660, as amended.
  - ii. The County and the applicant or owner agree to substitute the amount of such voluntary payment for a similar amount of a solar energy revenue share authorized by Va. Code Ann. §58.1-2636.
  - iii. For purpose of this subsection, “application has been filed with the locality” means an applicant has filed an application for a zoning confirmation from the County for a by-right use, or an application for land use approval under the County’s zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality’s zoning ordinance.
    - a. Nothing in this Section shall preclude an applicant or owner of a solar photovoltaic (electric energy) project previously approved by the County or who filed an

application with the County before July 1, 2020, from entering into a written agreement to submit such project to be subject to the provisions of this Ordinance.

3. Revenue Share Rate per Megawatt and Waiver of Machine and Tool Tax.

- A. The County hereby imposes a revenue share to be assessed at a rate of \$1,400.00 per megawatt on any solar photovoltaic (energy) project. The generation capacity shall be measured in alternating current (AC) generation capacity of the facility and the determination of the generation capacity shall be based on submissions by the facility owners to the interconnecting utility.
- B. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts as provided by Va. Code Ann. §58.1-3660, as amended, shall be one hundred percent (100%) of the assessed value.
- C. Nothing contained herein shall be construed to prevent any other tax or fee as provided by the Code of Virginia