

# COUNTY OF YORK

## MEMORANDUM

**DATE:** May 24, 2017 (BOS Mtg. 6/6/17)

**TO:** York County Board of Supervisors

**FROM:** Neil A. Morgan, County Administrator 

**SUBJECT:** Sponsorship of Zoning Ordinance Text Amendment to Add Solar Energy Uses

The Economic Development Authority unanimously approved a motion at its August 30, 2016, meeting to request an amendment to the Zoning Ordinance to establish a new land use and appropriate performance standards for solar energy uses. After researching the zoning issues surrounding these facilities, staff has prepared a series of draft ordinance amendments to provide for the siting, development, and decommissioning of solar energy facilities, subject to reasonable conditions intended to promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources. As part of its research, staff reviewed the ordinances and policies of nearby localities relative to solar facilities and found the following information:

### James City County

The County categorizes solar facilities as “electrical generation facilities,” which require a Special Use Permit in the Public Land District (PL), Limited Residential District (R-1), General Residential District (R-2), Residential Redevelopment District (R-3), Multifamily Residential District (R-5), Limited Business District (LB), Research and Technology District (RT), Mixed Use District (MU), Economic Opportunity District (EO), and General Business District (B-1).

### Gloucester County

The County has three categories of solar facilities: large private systems under five acres, small private residential systems, and utility provider systems greater than five acres. Small systems are permitted in all zoning district while large private systems are allowed by right in the Limited Industrial District (I-1) and Rural Countryside District (RC-1) and with a use permit in all other district. Utility-scale districts are permitted by right in the I-1 district and with a use permit in all other districts. The ordinance stipulates minimum setback requirements, height limits, buffering, and decommissioning procedures.

### City of Williamsburg

The City allows accessory solar panels on commercial and residential structures subject to review by the City’s Architectural Review Board.

### **New Kent County**

The County categorizes utility-scale solar facilities as “electrical generation facilities” and requires a conditional use permit (similar to a Special Use Permit) for large-scale solar facilities, which are allowed in the Conservation (C-1) and Agricultural (A-1) zoning districts. Small scale solar facilities are also allowed, with a use permit, in the Single-Family Residential (R-O, R-OA, R-1, and R-1A), and Mobile Home Parks (MHP) zoning districts. The ordinance sets forth standards for these facilities and stipulates that they use cannot produce glare or other offensive conditions and must be screened with landscaping, and that all equipment must be in working condition.

### **Summary/Recommendation**

The draft language included in the proposed sponsorship resolution would add Solar Energy Facilities to the Zoning Ordinance Table of Land Uses as a use permitted as a matter of right in the IL (Limited Industrial) and IG (General Industrial) zoning districts and permitted with a Special Use Permit in the RC (Resource Conservation), RR (Rural Residential), WCI (Water-oriented Commercial/Industrial), and EO (Economic Opportunity) districts. Also included are a series of proposed performance standards (e.g., minimum lot size and setback requirements, buffering and signage standards, dismantling requirements, etc.) applicable to solar energy facilities.

I recommend that the Board refer these proposed amendments to the Planning Commission for review, public hearing, and recommendation in accordance with applicable procedures. Please recall that sponsorship provides an opportunity for the amendments to be formally considered and discussed, but it does not commit the Board to the actual approval of any of the draft amendments.

Staff stands ready to provide any additional information that the Board may desire. Adoption of proposed Resolution R17-64 is recommended.

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Attachment:

- Proposed Resolution R17-64

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2017:

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Present

Vote

Sheila S. Noll, Chairman  
Jeffrey D. Wassmer, Vice Chairman  
Walter C. Zaremba  
W. Chad Green  
Thomas G. Shepperd, Jr.

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On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND VARIOUS SECTIONS OF CHAPTER 24.1, ZONING, OF THE YORK COUNTY CODE TO ADD PROVISIONS CONCERNING SOLAR ENERGY FACILITIES

WHEREAS, the York County Board of Supervisors has determined, pursuant to a request and recommendation by the Economic Development Authority and in accordance with good zoning practice, that consideration should be given to amending various sections of the Zoning Ordinance to add provisions concerning solar energy facilities;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the \_\_\_\_ day of \_\_\_\_\_, 2017, that it does hereby sponsor an application to consider the following proposed amendments to Chapter 24.1, Zoning, of the York County Code.

BE IT FURTHER RESOLVED that said application be, and is hereby, referred to the York County Planning Commission for review and recommendation in accordance with applicable procedures.

**Sec. 24.1-104. Definitions.**

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*Solar Energy Facility.* A renewable energy facility that either (a) generates electricity

from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy. The term shall not be construed to include integrated photovoltaics incorporated into roof shingles or other building materials.

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**Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.**

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- (n) Small wind energy systems subject to the standards set forth in section Nos. 24.1-231 and 274 of this chapter and provided that roof-mounted systems shall not be permitted in conjunction with single-family detached dwellings.
- (nn) Solar energy facilities designed to primarily serve the energy demands of the property on which located and subject to the standards set forth in Section 24.1-275 of this chapter.

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**Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.**

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- (k) Small wind energy systems subject to the standards set forth in section nos. 24.1-231 and 274 of this chapter.
- (kk) Solar energy facilities designed to primarily serve the energy demands of the property on which located and subject to the standards set forth in Section 24.1-275 of this chapter.

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**Sec. 24.1-275. Special standards applicable to accessory solar energy facilities.**

Accessory solar energy facilities shall be subject to the following provisions and standards:

- a) The cumulative area of all accessory ground-mounted facilities shall not exceed the footprint of the principal structure on the subject property.
- b) Any equipment mounted on a principal building or accessory building shall not extend above the height of the ridgeline of the building to which it is attached.

- c) Any ground-mounted facility shall not exceed twenty feet (20') in height, or the height of the principal structure, whichever is less.
- d) Solar energy facilities shall be operated in compliance with the provisions of Section 16-19, Unnecessary or excessive noise, of the York County Code.
- e) Ground-mounted solar energy facilities shall not be located in front or side yards and all parts of such facilities shall comply with the requirements set forth in Section 24.1-273, Location, height, and size requirements.
- f) The design and installation of the solar energy facility shall conform to applicable industry standards. A building permit shall be obtained for a solar energy facility in accordance the Building Code. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an engineer registered in the Commonwealth of Virginia.
- g) Applications for Building Permits shall be accompanied by scaled horizontal and vertical (elevation) drawings of the facility. The drawings must show the location of the facility on the building, or on the property for a ground-mounted facility, including the property lines and setback lines.
- h) The plan submission shall be accompanied by documentation, prepared, and certified by a professional engineer, attesting that the solar facility has been sited and designed properly to minimize glare.

**Secs. 24.1-~~275~~276—24.1-279. Reserved.**

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**Sec. 24.1-306. Table of Land Uses.**

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USES	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 17 - UTILITIES													
1. Electric Substations, Distribution Center, Transformer Stations, Telephone Exchanges	S	S	S	S	S	S	S	A	A	A	S	S	A	P
2. Electric Generating Plants														S
<u>2a. Solar Energy Facilities</u>	<u>S</u>	<u>S</u>									<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>
3. Sewage Pump/Lift Stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P
4. Sewage Treatment/Disposal Facilities	S	S											S	S
5. Water Purification Facilities	S	S											S	P
6. Water Storage Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	P
7. Radio, Television, Microwave Facilities	S	S								S	S	S	P	P

8. Utility Transmission Facilities other than Normal Distribution Facilities (Essential Services): Including Telephone Exchanges, Pipelines, High Voltage Power Lines	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
9. Solid Waste Disposal and Treatment Facilities including Incinerators, Landfills, Transfer Stations															S
10. Storage, Handling, Transport of Coal or Other Solid Fossil Fuels used in the County; Storage, Handling, Transport, Disposal of Fly Ash, Bottom Ash															S

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**Sec. 24.1-494.1. Solar Energy Facilities as a Principal Use.**

When proposed as the principal use of a property and with the intent of generating energy for sale and distribution off-site, solar energy facilities shall be subject to the following standards and requirements:

- (a) The minimum area of any parcel proposed for use as a solar energy facility shall be five (5) acres.
- (b) The applicant shall submit a site plan in accordance with Article V. *Site Plans*, to include scaled horizontal and vertical (elevation) drawings of the facility. The application shall demonstrate through facility siting and proposed mitigation, if necessary, that the solar facility minimizes impacts on the visual character of any scenic corridor as identified in the comprehensive plan.
- (c) The minimum setback shall be fifty feet (50') from all property lines.
- (d) The facility shall be surrounded by a perimeter buffer of at least fifty feet (50') in width which shall be landscaped, in accordance with the provisions of article II, division 4 of this chapter, to meet the Type 50 Transitional Buffer standards.
- (e) Ground-mounted equipment or components shall not exceed a maximum height of twenty feet (20'). Buildings associated with the solar facility shall comply with the height requirements for the zoning district in which located.
- (f) Documentation prepared and certified by a professional engineer attesting that the solar facility has been sited and designed properly to minimize glare shall be submitted.
- (g) The design and installation of the solar energy facility shall conform to applicable industry standards. A building permit shall be obtained for a solar energy facility in accordance the Building Code. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an engineer registered in the Commonwealth of Virginia.

- (h) One (1) freestanding sign, not exceeding thirty-two (32) square feet in area or six (6) feet in height shall be permitted to identify the facility.
- (i) Solar energy facilities shall be operated in compliance with the provisions of Section 16-19, Unnecessary or excessive noise, of the York County Code.
- (j) In the event the County becomes aware that a solar energy facility has ceased to operate for a continuous period of one year, the owner of the property shall be given written notice, by certified mail, of the need to respond within 30 days to provide:
  - 1) evidence that the system has been and remains in operation; or
  - 2) documentation of the reasons for the operational difficulty and the corrective measures being taken or proposed to be taken to restore operability.

In the event the facility is not operational and will not be restored to operation, the Zoning Administrator may issue an order to the landowner requiring that the equipment be dismantled and removed from the site within 180 days.

In the event the landowner provides a plan for correcting operational issues, the Zoning Administrator may issue an order to the landowner requiring the corrective measures to be completed within a specific period of time and, if not, for the facility to be dismantled and removed from the site.

- (k) The requirement to remove the solar facility equipment and other appurtenances set forth in the preceding subsection shall be ensured by the property owner/operator through a maintenance agreement, approved as to form by the county attorney, whereby the property owner/operator shall covenant to perform the required removal of any solar facility equipment or other described appurtenances within 180 days of notice by the County and grant authority to the County to perform such work at the property owner's cost if the owner/operator should default on his obligations. The owner/operator shall cause such agreement to be recorded by the clerk of the circuit court and provide evidence of such recordation to the zoning administrator prior to issuance of any building permits for the proposed development.

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