



Page County

Board of Supervisors

County Government Center • 103 South Court Street • Luray, VA 22835

www.pagecounty.virginia.gov

Agenda
Joint Meeting
with the Planning Commission
Board Room – 2nd Floor
June 28, 2022 – 7:00 p.m.

Call to Order

Public Hearing

- Ordinance to Add Chapter 134 (Solar Ordinance) to the County Code Tracy Clatterbuck

Adjourn

Meeting Broadcast Via Zoom:

<https://us02web.zoom.us/j/89901500105?pwd=S3VHdzdTQWtTYkhwaTJhRlZzNzIwZDZ09>

Dial by your location: +1 301 715 8592 US (Washington DC)

Meeting ID: 899 0150 0105

Passcode: 946936



County of Page, Virginia
Planning & Community Development
103 South Court St., Suite B
Luray, VA 22835

TO: Planning Commission and Board of Supervisors
FROM: Tracy Clatterbuck, Zoning Administrator
SUBJECT: Add Chapter 134 Solar Ordinance to the Page County Code (Joint Public Hearing)
DATE: June 22, 2022

SUMMARY:
Creation of Chapter 134 of the Page County Code establishing a Solar Ordinance

BACKGROUND:

On March 22, 2022 the Board provided a draft solar ordinance to the Planning Commission for review and consideration. The Planning Commission has reviewed the proposed draft and made revisions to the draft. If adopted, this would be the first solar ordinance adopted by Page County.

MOTION(S):

Planning Commission-

I move that the Page County Planning Commission recommend approval to the Board of Supervisors of Chapter 134 of the Page County (Solar Ordinance) as presented.

OR

I move an alternative motion.

Board of Supervisors-

I move that the Page County Board of Supervisors approve Chapter 134 of the Page County (Solar Ordinance) as presented.

OR

I move an alternative motion.

CHAPTER 134

SOLAR FACILITIES

§ 134-1 Statement of intent.

The purpose of this section is to establish requirements for construction, operation, and decommissioning of solar facilities; to provide standards for the placement, design, construction, monitoring, modification, and removal of solar facilities; address public safety, minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for decommissioning.

§ 134-2 Applicability.

This article shall apply to all solar facilities constructed after the effective date of this article, including any physical modifications to any existing solar energy facilities that materially alter the type, configuration, or size of such facilities or other equipment.

§ 134-3 Definitions.

When used in this Chapter, the following words shall have the following meanings:

Acreage coverage: The total acres covered by arrays of photovoltaic panels including spaces between panels, buildings, inverters, substation, switchyard, battery storage, ancillary equipment, and fencing around these items but excluding wildlife corridors, mandated setbacks, wetlands, and other avoided natural or cultural features outside of the security fencing on the project site.

Aggregate Cap: The aggregate cap is the maximum total acreage coverage of utility/industrial solar facilities allowed, not a goal to be achieved. All projects shall undergo careful consideration in the special use permit process.

Applicant: The person or entity who submits an application to the locality for a permit under this ordinance.

Battery energy storage system: Equipment or devices capable of absorbing electrical energy, storing it for a period of time and redelivering that energy after it has been stored.

Decommissioning: The procedure to disconnect, remove and properly dispose of all above and underground infrastructure, equipment, facilities, electrical components or devices, and to restore the property to prior use or future use consistent with the Comprehensive Plan and future zoning.

Integrated PV: Photovoltaics incorporated into building materials, such as shingles.

Karst: A landscape/feature/topography with sinkholes, springs and streams that sink into subsurface caverns and conduits.

Net metering: An electricity billing mechanism that credits solar energy system owners for the electricity they add to the grid.

Operator: The person responsible for the overall operation and management of a facility.

Owner: The person or entity who owns all or a portion of a facility.

Photovoltaic or "PV": Relating to materials and devices that absorb sunlight and convert it directly into electricity.

Rated capacity: The maximum capacity of a solar facility based on the sum total of each photovoltaic system's nameplate capacity.

Site plan: A plan showing all proposed improvements to the site. The site plan shall include the location of all easements and right-of-ways and other conditions relating to use, location, and bulk of buildings, density of development, open space, public facilities, and such other information as is required in applicable sections of this ordinance such as with conditional use, rezoning, or variance applications.

Solar facility: The entire area, including acreage coverage, setbacks, buffers, access roads, wildlife corridors, wetlands, and other natural features of a facility that generates electricity from sunlight.

Solar facility, small-scale: A solar facility that generates electricity from sunlight primarily to reduce onsite consumption of utility power for residential applications that:

- (a) Either generates less than 25 kilowatts (kW) electricity from sunlight, consisting of one or more Photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site;
- (b) Or 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;

and meets at least one of the following criteria:

- (a) has a disturbance zone equal to or less than one (1) acre if ground mounted;
- (b) is mounted on or over a building, parking lot, or other previously disturbed area;
- (c) or utilizes integrated PV only (excluding passive solar homes).

Should the use change from residential to any other use, the definition and requirements of that use shall apply.

Solar facility, medium-scale: A facility that generates electricity from sunlight primarily to reduce onsite consumption of utility power for agricultural, commercial and industrial applications. Ground mounted sites occupy less than 2 acres.

Solar facility, industrial/utility scale: A facility that generates electricity from sunlight primarily for sale to a utility provider. An energy conversion system consisting of photovoltaic panels,

their support structures, and associated infrastructure, such as but not limited to control, conversion, and transmission hardware, and energy storage systems, occupying more than two (2) acres of total land area.

§ 134-4 Zoning districts.

1. Small-scale solar facilities may be installed by-right in all zoning districts to provide electricity to individual structures; provided a site plan (as applicable) has been submitted to Page County for review and approval; all Federal, State and Local regulations have been followed; and the system is located upon the property or structure being served.
2. Medium-scale solar facilities may be installed by-right (roof-mounted or ground-mounted) in agricultural, commercial, woodland/conservation and industrial zoning districts to provide electricity to individual structures; provided a site plan (as applicable) has been submitted to Page County for review and approval; all Federal, State and Local regulations have been followed; and the system is located upon the property or structure being served.
3. Utility-scale solar facilities shall be permitted in industrial and agricultural zoning districts by Special Use Permit (SUP) only. Industrial/Utility scale solar facilities shall not be permitted in any other zoning district.

§ 134-5 Small-scale and medium-scale requirements and standards.

1. The design and installation of all solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.
2. Small and medium-scale energy facilities shall comply with all applicable federal, state and county regulations, ordinances and codes.
3. All ground-mounted small and medium-scale solar facilities shall submit a site plan to the zoning administrator. The site plan for small and medium-scale solar facilities shall include:
 - (a) A description of the subject parcel.
 - (b) Property lines and setback lines. A land survey by a Virginia licensed surveyor may be required upon request by the Zoning Administrator.
 - (c) Existing and proposed buildings, improvements, and structures, including locations of the proposed solar panels and related equipment.
 - (d) The location and nature of screening elements, including vegetative buffers, if applicable.
 - (e) If applicable, the location of substations, switchyards, electrical cabling from the solar facility systems to the substations, ancillary equipment, buildings, and structures including those within any applicable setback.
4. All roof-top mounted small and medium-scale solar facilities shall submit an engineering study to the building official's office for review and approval. In lieu of an engineering study, a

certified report prepared by a company that is licensed and certified to install roof-top mounted solar energy systems may be submitted to the building official's office for review and approval.

5. All small or medium-scale solar energy facilities shall comply with the following standards:
 - (a) A ground mounted solar energy facility shall setback a minimum of 50 feet when the adjacent parcel has an existing residence that is located within one hundred (100) feet of the property line. Small and medium ground mounted solar energy facilities shall otherwise be setback as required by the zoning district.
 - (b) If the solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the panel height shall not exceed 15 feet.
 - (c) The lowest surface of any ground mounted panel shall be a maximum of ten (10) feet above the finished grade.
 - (d) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.
 - (e) Net metering shall comply with all local, state and federal regulations.
 - (f) All broken or waste solar modules and materials shall be removed from the site within sixty (60) days. Panels, parts, and components thereof shall be transferred to a reclamation or repurposing facility that specializes in recycling, reclaiming or repurposing solar facility materials, or shall otherwise be disposed of in accordance with federal and state law. In no event shall such materials be disposed of in Page County, Virginia without express, written consent, of the Board of Supervisors, or its designee.
6. Medium-scale solar energy facilities, when adjacent to a parcel with an existing residence that is located within one hundred (100) feet of the proposed panel locations, shall be screened from the ground-level view of adjacent properties by a buffer zone at least 25 feet wide that shall be landscaped with native and non-invasive plant materials, except to the extent that existing vegetation or natural landforms on the site provide such screening as determined by the Zoning Administrator. Trees shall be a minimum of 6 feet in height at time of planting and in staggered rows of ten (10) foot on center. In the event existing vegetation or landforms providing the screening are disturbed, new plantings shall be provided which accomplish the same. The effectiveness of screening shall be maintained as the plant materials mature. Unhealthy and dead plants shall be replaced within one (1) year of being provided written notice by the County of the violation..
7. Decommissioning of small-scale solar facilities. Within six (6) months of being taken out of service, the property owner shall remove the entire solar energy system, including all panels, parts, modules, cabling, wiring, foundations, and pilings. All components shall be disposed of pursuant to the standards set forth herein.
8. Decommissioning of medium-scale solar facilities.

- (a) A medium-scale solar energy facility shall be deemed abandoned if either: (1) the facility has not operated for a period of twelve (12) consecutive months after initially beginning operation, or (2) construction ceases for a period of nine (9) consecutive months after initially beginning construction.
 - (b) The property owner, or owner of the abandoned facility, if different, shall notify the Zoning Administrator within thirty (30) days of the facility being abandoned, and shall remove the entire solar energy system, including all panels, parts, modules, cabling, wiring, foundations and pilings within six (6) months from the date thereof.
 - (c) Upon receipt of notice that the facility has been deemed abandoned by the Zoning Administrator or his/her designee, the owner shall decommission and remove the entire solar energy system, including all panels, parts, modules, cabling, wiring, foundations and pilings within six (6) months from the date of said notice, unless an extension is granted by the Board of Supervisors, or its designee. Such extension must be in writing and must set forth the basis for the extension.
9. Applicant, Owner Default; Decommissioning by the County. If the property owner, or their successor in interest, fails to decommission the solar energy facility within six (6) months of being deemed abandoned, or within twelve (12) months of being taken out of service, whichever is sooner, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property and the rights to the solar energy equipment and materials on the property. The property owners, or successors, shall be responsible for reimbursing the County for all costs and expenses of decommissioning, which shall attach to the real estate as a tax lien until paid in full.

§ 134-6 Utility-Scale Solar Facility Applications and Procedures.

In addition to other requirements of the Page County Zoning Ordinance and Special Use Permit requirements, applications for a utility-scale solar facility shall include the following information:

- 1. Pre-application meeting. In addition to the written notice requirements set forth in §15.2-2316.7 of the Code of Virginia, the applicant shall schedule a pre-application meeting with Page County to discuss the location, scale, and nature of the proposed use and what will be expected during the process.
- 2. Comprehensive Plan Review. A 2232 review as required by the *Code of Virginia* (§15.2-2232) for utility-scale solar facilities shall be completed. This Code provision provides for a review by the Planning Commission of public utility facility proposals to determine if their general or approximate location, character and extent are substantially in accord with the Comprehensive Plan or part thereof. This requirement may be waived by the Board of Supervisors pursuant to the authority set forth in §15.2-2232 (H).
- 3. Special Use Permit (SUP) application. A complete SUP application including:
 - (a) Documents demonstrating the ownership of the subject parcel(s), or proof that a valid

land lease agreement otherwise exists.

- (b) Proof that the applicant has authorization to act upon the owner's behalf.
- (c) A letter of commitment from the utility company who will interconnect to the facility and a statement of line capacity before and after interconnection.
- (d) List of all adjacent property owners, their tax map numbers, and addresses.
- (e) A description of the current use and physical characteristics of the subject parcels.
- (f) A description of the existing uses of nearby properties.
- (g) A narrative identifying the applicant, owner of the proposed project, a substantive history of the owner's solar project developments, including all previous and current solar projects, any legal challenges or claims in which they were named or identified, and the name of any proposed entity under which they intend to operate, if different. The narrative shall further describe the proposed solar facility project, including an overview of the project and its location, approximate rated capacity of the solar facility project, the approximate number of panels, representative types, expected footprint of solar equipment to be constructed, and type and location of interconnection to electrical grid.
- (h) Aerial imagery which shows the proposed location of the solar facility, fenced area, driveways, and interconnection to electrical grid with the closest distance to all adjacent property lines and dwellings along with main points of ingress/egress.
- (i) Payment of the application fee and any additional review costs, advertising, or other required staff time.
- (j) The applicant shall consult with the Department of Wildlife Resources and provide a written recommendation regarding wildlife corridors.
- (k) A preliminary site plan prepared by a Virginia licensed engineer, which shall include the following:
 - 1. A description of the subject parcels.
 - 2. Property lines and setback lines. A land survey by a Virginia licensed surveyor is required.
 - 3. Existing and proposed buildings and structures; including preliminary locations of the proposed solar panels and related equipment; the location of proposed fencing, driveways, internal roads, and structures; and the location of points of ingress/egress.
 - 4. The location and nature of proposed buffers and screening elements, including vegetative and constructed buffers.
 - 5. Existing and proposed access roads, drives, turnout locations, and parking.
 - 6. Location of substations, electrical cabling from the solar facility systems to the substations, ancillary equipment, buildings, and structures including those within any applicable setback.
 - 7. Twenty sets (11"× 17" or larger), one reduced copy (8½"× 11") and one electronic

copy of the site plan, including elevations and landscape plans as required.

4. A proposed grading plan shall be submitted with the special use permit application, with a final grading plan to be approved prior to any construction activity commencing on the project site.
5. A proposed landscaping maintenance plan shall be submitted with the special use permit application which takes into account the requirements set forth in §134-7. A final landscaping maintenance plan shall be submitted and must be approved prior to any construction activity commencing on the project site.
6. A proposed decommissioning plan shall be submitted with the special use permit application. A completed decommissioning plan, certified by an engineer, shall be submitted, and approved prior to, or along with, site plan approval, detailing how the applicant proposes to decommission the facility. The proposal shall include the following information:
 - (a) The anticipated life of the project;
 - (b) A cost estimate for the decommissioning of the facility that shall be prepared by a Virginia licensed professional engineer or contractor who has expertise in the removal of large-scale solar facilities. The decommissioning cost estimate shall detail the current cost in dollars and projected costs over the life of the project without any reduction for salvage value.
 - (c) How the estimate was determined;
 - (d) The manner and method of ensuring that funds will be available for decommissioning;
 - (e) The proposed methods and steps required for removal of structures, materials, buildings, roads, cabling, electrical components, operational equipment, and any other associated facilities at the end of the anticipated life of the project;
 - (f) Steps to restore the Site to conditions prior to the commencement of the project, including soil stabilization and revegetation (if applicable); and
 - (g) Impacts, if any, on the surrounding properties when decommissioned.
 - (h) The name and physical address of the person or entity responsible for the decommissioning plan.
7. The following shall also be submitted with the application for a special use permit:
 - (a) Traffic study modeling the construction and decommissioning processes. The Virginia Department of Transportation will be responsible for reviewing the study.
 - (b) An estimated construction schedule.
 - (c) An environmental inventory and impact study regarding any waterways, wetlands, floodplains, and karst landscapes and topographies that are adjacent to the project site, site and watershed impacts, including direct and indirect impacts to national and state forests, national or state parks, wildlife management areas, conservation

easements, recreational areas, or any known historic or cultural resources within five (5) miles of the proposed project.

- (d) An environmental site assessment and impact study prepared by a Virginia certified engineer experienced in karst landscapes, including but not limited to, site investigations and an Erosion and Sediment Control Plan confirming that the project will not adversely affect ground water.
 - (e) A visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the solar facility minimizes impact on the visual character of the County. The impact analysis shall include, but not necessarily be limited to:
 - (f) Accurate, to scale, photographic simulations showing the relationship of the solar facility and its associated amenities and development to its surroundings, including projected vegetative growth. The photographic simulations shall show such views of solar structures from locations such as property lines and roadways, as deemed necessary by the County in order to assess the visual impact of the solar facility.
 - (g) The total number of simulations and the perspectives from which they are prepared shall be established by Page County after the pre-application meeting.
8. Additional information may be required to be submitted with the application, as determined by the Zoning Administrator, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project from potentially sensitive locations as deemed necessary by Page County 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.

§ 134-7 General Regulations and Standards.

1. The design and installation of solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.
2. Utility-scale solar facilities shall be constructed and operated in substantial compliance with the approved Site Plan, with allowances for changes required by the Virginia Department of Environmental Quality (DEQ) Permit by Rule (PBR) process. Any change related to the location of structures or related to a change resulting in a 10% increase in overall acreage coverage, shall require the SUP to be amended.
3. Any commercial or industrial solar facility installed upon a roof top shall submit a site plan and an engineering study to Page County for review.
4. For any ground mounted solar energy facility, written approval from the Page County Health Department is required prior to the issuance of a building permit.

5. If the solar facility does not receive a building permit within twenty-four (24) months of approval of the Special Use Permit, the Permit shall be terminated unless granted an extension, in writing, by the Zoning Administrator. Such extension shall set forth the basis for the extension.
6. The owner/operator of a medium scale or utility scale solar facility shall give the County written notice of any change in ownership, operator, or Power Purchase Agreement within thirty (30) days of such anticipated change.
7. The applicant should sponsor a neighborhood meeting prior to the scheduled public hearing with the Planning Commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.
8. Battery energy storage systems and facilities are not authorized, except as necessary for the operations of the site-specific solar energy facility. If such systems are required, they shall be installed with industry best practices including a Battery Management System (BMS) with 24/7 monitoring and automated fire suppression.
9. Connections between two (2) or more adjacent properties, or tracts, shall not be permitted (no “daisy-chain” connections).
10. Ground Mounted Solar Energy Facilities Size Limitations:
 - a. Aggregate Cap: Commencing on [effective date], and continuing until amended by the Board of Supervisors, no more than three hundred (300) acres of acreage coverage, in aggregate, may be approved for utility-scale solar facilities.
 - b. The minimum area of a utility-scale solar facility shall be two (2) acres.
 - c. The maximum area of a medium-scale solar facility shall be two (2) acres.
 - d. No more than thirty (30) acres of acreage coverage may be approved for an individual utility-scale solar facility. This shall be measured by total acreage coverage as defined herein, not accessory structures necessary for the operation of the solar energy facility.
 - e. The equipment, improvements, structures, and percent of acreage coverage of a utility-scale solar facility shall be shown on the site plan approved by the Board as part of the special use permit. The percent of acreage coverage shall not exceed sixty-five percent (65%) of the project site.
11. Setbacks for a utility-scale solar facility shall be:
 - a. All above-ground infrastructure, equipment, improvements or structures, including security fencing, shall be no less than three hundred (300) feet from property lines with existing dwellings.
 - b. All above-ground infrastructure shall be no less than _____ (____) feet from all other property lines.
 - c. Setbacks are not required among and between participating landowners’ parcels, if applicable.
 - d. Transformers shall be set back six hundred (600) feet from property lines.

- e. All equipment, improvements, or structures, including security fencing, shall be located no closer than _____ (_____) feet from any primary highway or roadway and _____ hundred (_____) feet from any secondary highway, roadway or other right-of-way passage.
 - f. When located adjacent to a residential zoned property, then all setbacks shall be six hundred (600) feet from the residential zoned property lines, notwithstanding of any other provisions set forth herein.
12. The following location standards are intended to mitigate adverse effects on adjoining property owners, the neighborhood, the district and the County. Industrial/utility scale solar facilities shall:
- a. Be located at least one (1) mile from a town boundary;
 - b. Be located outside of the primary or secondary service areas around a town (growth tiers), as expressed in the Comprehensive Plan and in the zoning maps;
 - c. Not be located within two (2) miles of another existing or permitted industrial/utility scale solar facility, unless the combined acreage coverage is thirty (30) acres or less.
 - d. Locate the point of connection to the utility within one (1) mile of electric transmission lines.
 - e. Minimize and avoid locating on farmland in agricultural zoned properties with soils categorized as Prime Farmland and Farmland of Statewide Importance. The acreage coverage of a solar facility shall have no more than fifty (50) percent of soils identified as Prime Farmland and Farmland of Statewide Importance. An in-depth soil analysis conducted by a third party, approved by the County, may override this requirement if the analysis by the National Resource and Conservation Service shows that the specific soils to be developed are not in fact those that meet the Prime Farmland or Farmland of Statewide importance requirements.
 - f. Be located outside forested areas as identified and defined in the Comprehensive Plan and by a Virginia State certified forester. Forested areas cannot be clearcut or heavily timbered within five (5) years of submission of an application for an industrial/utility scale solar facility.
 - g. Not be located in or within three hundred (300) feet of historic and cultural resources as defined in the Comprehensive Plan.
13. The maximum height of the lowest edge of the photovoltaic panels shall be 10 feet as measured from the finished grade. The maximum height of photovoltaic panels, primary structures, battery storage systems and accessory buildings shall be 15 feet as measured from the finished grade at the base of the structure to its highest point, including appurtenances. The Board of Supervisors may approve a greater height based upon the demonstration of a significant need where the impacts of increased height are mitigated.
14. PV solar panels and any associated equipment shall not be located on slopes ten percent (10%) or greater. Mitigation, including but not limited to drip strips under panel arrays or row gaps, shall be required on slopes greater than seven percent (7%). Slopes that are fifteen percent (15%) or less may be graded to comply with the ten percent (10%) requirement. No grading to comply with the slope requirements shall otherwise be permitted.

15. Wetlands, waterways, floodplains and karst features, including, but not limited to, sinkholes, shall be inventoried, delineated, and avoided, with exception of encroachments permitted by State Code and regulations.
16. Facilities may be located on karst topography only if a site assessment made by a Virginia certified engineer experienced in working in karst landscapes, including but not limited to, site investigations and an Erosion & Sediment Control Plan, confirms that the site location and design will not adversely affect groundwater.
17. For any utility scale solar facility constructed in an area in close proximity to rivers, streams, creeks, lakes, ponds, waterways, wetlands, or any known groundwater source, baseline water testing shall be required prior to any clearing or construction activity and the findings shall be reported to the County. Water testing shall be completed at the expense of the applicant, or the owner/operator, as applicable. In addition to the baseline testing, testing to monitor water contamination from runoff shall be conducted every twelve (12) months that the Utility Scale Solar Facility remains in operation, or upon written request by the Zoning Administrator. Criteria for testing shall be derived from, but not limited to, information contained in equipment Material Safety Data Sheet (MSDS) which shall be provided by the applicant/operator. Findings may be submitted to appropriate state agencies for review and/or enforcement in case of any violation.
18. For any utility-scale solar facility, a baseline soil report shall be prepared prior to any clearing or construction activity, with the findings reported to the County. In addition to the baseline testing, testing to monitor soil contamination shall be conducted every two (2) years for the duration of the permit. In addition, a final soil report shall be prepared at the time of decommissioning. Soil testing shall be completed at the expense of the applicant, or the owner/operator, as applicable.
19. Utility-scale solar facilities, including fencing, shall be significantly screened from the ground-level view of adjacent properties by a buffer zone at least 100 feet wide that shall be landscaped with native and non-invasive plant materials consisting of an evergreen and deciduous mix (as approved by County staff), except to the extent that existing vegetation or natural landforms on the site provide such screening as determined by Page County. Trees shall be a minimum of 6 feet in height at time of planting and in staggered rows of ten (10) foot on center. In the event, existing vegetation or landforms providing the screening are disturbed, new plantings shall be provided which accomplish the same. The effectiveness of screening shall be maintained as the plant materials mature. Unhealthy and dead plants shall be replaced within one (1) year of being provided written notice by the County of the violation.
20. Utility-scale solar facilities shall be enclosed by security fencing on the interior of the buffer area (not to be seen by other properties) not less than nine (9) feet in height. The fence shall not be topped with razor/barbed wire. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the security fencing shall result in revocation of the SUP and the facility's decommissioning.

21. For industrial/utility scale solar facilities, ground cover on the site shall be pollinator-friendly native and non-invasive vegetation and maintained in accordance with the Landscaping Maintenance Plan in accordance with established performance measures. A performance bond reflecting the costs of anticipated landscaping maintenance shall be posted and maintained. Failure to maintain the landscaping shall result in revocation of the SUP and the facility's decommissioning. Incorporation of non-invasive plant species that require no pesticides, herbicides, and fertilizers or the use of pesticides and fertilizers with low toxicity, persistence, and bioavailability is recommended. The operator shall notify the County prior to application of pesticides and fertilizers.
22. Wildlife corridors:
 - a. Wildlife corridors shall be established as determined by the Virginia Department of Wildlife Resources.
 - b. Proposed wildlife corridor(s) shall be shown on the site plan submitted to the County and shall be a minimum of 25 feet in width. Areas between fencing shall be kept open to allow for the movement of migratory animals and other wildlife.
23. The design of support buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the facilities to the natural setting and surrounding structures.
24. All structures, racks and associated facilities shall have a non-reflective finish or appearance. Solar panel arrays shall be designed to maximize absorption and minimize glare toward adjoining properties and upward toward aircraft. Panel arrays shall be designed and constructed in such a way as to limit glare towards vehicles traveling on state-maintained roads.
25. The owner/operator of a solar facility shall maintain the solar facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the equipment and structures, as applicable, and maintenance of the buffer areas and landscaping. Site access shall be maintained to a level acceptable to the County.
26. The owner/operator of a utility scale solar facility shall be responsible for the cost of maintaining the solar facility and access roads, and the cost of repairing damage to private roads occurring as a result of construction and operation.
27. The owner/operator of a utility scale solar facility shall be required to submit an incident response plan to Page County.
28. A utility-scale solar facility shall be designed and maintained in compliance with standards contained in applicable local, state and federal building codes and regulations that were in force at the time of the permit approval.
29. A utility-scale solar facility shall comply with all permitting and other requirements of the Virginia Department of Environmental Quality.
30. The applicant shall provide proof of adequate liability insurance for a solar facility prior to beginning construction and before the issuance of a zoning or building permit from Page

County. The applicant shall provide proof of said liability insurance policy upon request by the County.

31. The applicant shall obtain county-approved qualified third parties to conduct all inspections as required by the Virginia Erosion & Sediment Control Regulations (9VAC25-840-60) and the Virginia Stormwater Management Program Regulations (9VAC25-870-114). The applicant shall be responsible for any and all costs associated with these inspections. After completion of land disturbing activities and permanent control measures are operable, inspections shall revert back to the County (Virginia Stormwater Management Program Authority). This third party must hold a certificate of competence in the area of Erosion & Sediment Control and Stormwater Management issued by the Commonwealth of Virginia State Water Control Board. All inspection reports must be submitted to the County's program administrator within 24 hours of the inspection via email.
32. Lighting fixtures as approved by the County shall be the minimum necessary for safety and/or security purposes to protect the night sky by facing downward and to minimize off-site glare. No facility shall produce glare that would constitute a nuisance to the public. Any exceptions shall be enumerated on the Site Plan and approved by Page County.
33. No signage of any type may be placed on the solar facility other than notices, warnings, and identification information required by law.
34. All facilities must meet or exceed the standards and regulations of the Federal Aviation Administration ("FAA"), State Corporation Commission ("SCC") or equivalent, and any other agency of the local, state or federal government with the authority to regulate such facilities that are in force at the time of the application.
35. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on high voltage electrical equipment and utility-scale facility entrances.
36. A sealed dry-waste container shall be maintained at the facility for the storage and disposal of any hazardous waste, including but not limited to, damaged solar panels. Hazardous waste shall be transferred to a reclamation or repurposing facility that specializes in recycling, reclaiming or repurposing solar facility materials, or shall otherwise be disposed of in accordance with federal and state law within sixty (60) days of being taken out of service. In no event shall such materials be disposed of in Page County. A receipt of disposal shall be submitted to the County Administrator or their designee within thirty (30) days of such disposal.
37. Community impact assessment by a County approved third party, including but not limited to, a comprehensive economic impact, agricultural and tourism revenue, employment and taxation, shall be required and shall assess the various project tax and revenue options, including but not limited to, Code of Virginia §58.1-2636, §58.1-3660, §15.2-2288.8, and

§15.2-2316.6 through 2316.9.

38. If the solar facility is declared to be unsafe by Page County, the facility must be brought into compliance within fourteen (14) days or the Special Use Permit shall be terminated, and the system shall be removed from the property in accordance with the decommissioning plan. This time period may be extended by the Board of Supervisors or its designee, in writing, upon a finding of good cause.
39. Any third-party assessment shall be paid for by the applicant, but the third-party assessor must be approved by Page County.
40. Any other condition approved by the Page County Board of Supervisors as part of the special use permit process.

§ 134-8 Decommissioning of Industrial/Utility Scale Solar Facilities.

1. A decommissioning plan shall be developed by the applicant, owner or operator and included as part of the special use permit.
2. A solar facility which has reached the end of the term of the special use permit and not been granted an extension shall be deemed abandoned.
3. A solar facility project for which on-site construction has begun, but then ceases for a period of nine (9) consecutive months prior to beginning operation, shall be deemed abandoned, unless granted an extension, in writing, by the Board of Supervisors or their designee.
4. A solar facility that is completely inactive, or that has substantially discontinued the delivery of electricity to a grid, for a continuous six (6) month period shall be deemed abandoned, unless granted an extension, in writing, by the Board of Supervisors, or their designee.
5. The applicant, owner of the real estate, or owner or operator of the solar facility shall notify Page County by certified mail that the facility is abandoned.
6. At such time that the project is anticipated to become abandoned, or within two (2) years of anticipated decommissioning, whichever is earlier, the owner, operator, or owner of the real estate, shall notify the Board of Supervisors, or their designee, in writing of the anticipated cessation of operation.
7. Within six (6) months of a utility scale solar facility being declared abandoned by the owner, operator, or Page County, the owner or operator shall, at its sole cost and expense, complete the decommissioning of the utility scale solar facility in accordance with the decommissioning plan approved by the County. This time limitation may be extended at the request of the owner or operator, upon approval by the Board of Supervisors.
8. If the owner or operator fails to either notify the Board of Supervisors, or its designee, that the utility scale solar facility has been abandoned, or fails to decommission the abandoned

utility scale solar facility, the property owner shall conduct the decommissioning in accordance with the plan and may use bonded resources to do so, as approved and released by the County.

9. Applicant, Owner Default; Decommissioning by the County.

- a. If the applicant, its successor, and the property owners fail to decommission the solar energy facility within six (6) months, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property, access to the full amount of the decommissioning surety, and the rights to the solar energy equipment and materials on the property. The applicant, and property owners, or successors, shall be responsible for reimbursing the County for all costs and expenses of decommissioning in excess of the decommissioning surety, and all such excess amounts shall attach to the real estate as a tax lien until paid in full.
- b. Any excess decommissioning surety funds shall be released to the then owners of the property after completion of decommissioning.
- c. Prior to the issuance of any permits, the applicant and the property owners shall deliver a legal instrument to the County granting the County the right to access the property and the solar energy facility equipment and materials so the County can complete the decommissioning, should it choose to do so, upon the applicant's and property owners' default. Such instrument shall bind the applicant and property owners and their successors, heirs and assigns. Nothing herein shall limit other rights or remedies that may be available to the County to enforce the obligations of the applicant, operator, or property owner, including remedies under the County's zoning powers.

10. Surety.

- a. The estimated cost of decommissioning shall be guaranteed by the deposit of funds, in an amount equal to the estimated cost of decommissioning, in an escrow account at a federally insured financial institution approved by the Board of Supervisors prior to the issuance of a building permit from Page County.
- b. The applicant shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the solar facility.
- c. The escrow account agreement shall prohibit the release of the escrow funds without the written consent of the County. The County shall consent to the release of the escrow funds upon the owner's, operator's, or occupant's compliance with the approved decommissioning plan. The County may approve the partial release of escrow funds as portions of the approved decommissioning plan are performed.
- d. The amount of funds required to be deposited in the escrow account shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.

- e. A Virginia licensed Engineer shall recalculate the estimated cost of decommissioning every five years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or occupant shall deposit additional funds into the escrow account to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than ninety percent (90%) of the original estimated cost of decommissioning, then the County may approve reducing the amount of the escrow account to the recalculated estimate of decommissioning cost.
 - f. The County may approve alternative methods to secure the availability of funds to pay for the decommissioning of a utility-scale solar facility, such as a performance bond, letter of credit, or other security provided by a company licensed, or otherwise authorized to conduct business, in Virginia and approved by the County. In the event a bond is approved as an alternative security, such bond shall be posted prior to the commencement of construction, and maintained thereafter, in an amount to be reassessed every five (5) years based on estimated decommissioning costs. The applicant shall provide proof of such bonding after each reassessment and shall provide a copy thereof to the County Administrator or their designee. Following completion of decommissioning of the utility-scale solar facility, the bond shall be released and, if the County has called upon the bond and take control of bond resources, any remaining resources held by the County shall be distributed to the property owners in proportion to their ownership interests.
9. Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural or forestial uses. The site shall be de-compacted, graded and re-seeded to restore it to as natural a pre-development condition as possible or replanted with pine seedlings to stimulate pre-timber pre-development conditions as indicated on the approved Site Plan. Any exception to site restoration, such as leaving access roads in place or seeding instead of planting seedlings must be requested by the landowner in writing, and this request must be approved by the Board of Supervisors (other conditions might be more beneficial or desirable at that time).
10. Land disturbance activities as a result of removal of solar facilities shall adhere to all local, state, and federal requirements.
11. Decommissioning shall be performed in compliance with the approved decommissioning plan. The Board of Supervisors may approve any appropriate amendments to or modifications of the decommissioning plan.
12. Hazardous material, panels or pieces thereof from the property shall be transferred to a reclamation or repurposing facility that specializes in recycling, reclaiming or repurposing solar facility materials, or shall otherwise be disposed of in accordance with federal and state law. In no event shall such materials be disposed of in Page County, Virginia without express, written consent, of the County Administrator or his/her designee. A receipt of disposal shall

be submitted to the County Administrator or their designee within sixty (60) days of such disposal.

13. Partial Decommissioning. Any reference to decommissioning shall include the obligation to decommission all or a portion of the facility, whichever is applicable with respect to a particular situation. If decommissioning is triggered for a portion, but not the entire solar energy facility, then the partial decommissioning shall be completed in accordance with the decommissioning plan and this section for the applicable portion of the solar energy facility.

§ 134-9 Coordination of local emergency services.

The applicant, owner, or operator of a utility-scale solar facility shall coordinate with the County's emergency services staff to provide annual materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies. In the event specialized equipment is necessary to safely respond to on-site emergencies, the applicant, owner, or operator shall be responsible for furnishing the County with such equipment.

§ 134-10 Other Conditions.

The Board of Supervisors shall consider conditions when considering a proposed utility-scale solar facility, including, but not limited to, the following:

1. Maximum generating capacity of the solar facility.
2. More restrictive criteria pertaining to location and proximity of facility to other uses, including but not limited to, residential uses, highways, entry corridors, scenic highways.
3. More restrictive criteria pertaining to buffer zones and wildlife corridors.
4. More restrictive criteria pertaining to prime soils, soil analysis, water analysis, and deforestation.
5. Job fairs, hours of construction, public safety and EMS training.
6. In addition to the minimum setbacks set forth herein, the Board shall determine minimum setbacks required of all panels, equipment, substations, switchyards, and other ancillary structures, any karst features, wetlands, waterways, rivers, creeks, and streams, floodplains, property lines of parcels with existing dwellings, and property lines of all other property without existing dwellings. These setbacks established by the Board do not apply to internal lot lines that are included in the project.

§ 134-11 Severability.

If any portion of this chapter shall be declared invalid by a competent Court of law, such invalidity shall not affect the validity of any of the remaining provisions of this chapter.