



**Westmoreland County
Planning Commission
AGENDA**

Lewis Thompson
James Coates
Kyle J Schick
Ben Hudson
Allen Hickman

George D. English, Sr.
Memorial Building
111 Polk Street
Montross, VA 22520
Board Room

Wednesday, May 27, 2026

1. Call to Order
2. Roll Call
3. Commissioner's Concerns
4. Public Comment
5. Other Matters
 - A. **Case# 2605-CA-01**- Proposed text amendment to the Westmoreland County Zoning Ordinance to align with state code involving the adoption of policies, uses, and definitions related to Solar Energy Facilities and Battery Energy Storage Facilities.
6. Adjournment



Westmoreland County, Virginia
LAND USE ADMINISTRATION
PO Box 1000
Montross, VA 22520
804-493-0120

Building Official
Zoning Official
Planning Commission
Board of Zoning Appeals
Board of Building Appeals
Wetlands Board

County Code Amendment **Staff Report**

Date: May 13, 2026
From: Richard Stuart Jr, *Director*
Case #: 2605-CA-01
Site Location: County-wide
Project Description: Proposed text amendment to the Westmoreland County Zoning Ordinance to align with state code involving the adoption of policies, uses, and definitions related to Solar Energy Facilities and Battery Energy Storage Facilities.
PC Work Session: Wednesday, May 27, 2026 (3:00 pm, English Building)
Planning Commission: Monday, June 1, 2025 (1:30 pm, English Building)
Board of Supervisors: Tentatively scheduled for June 22, 2026

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Background:

As of April 2026, Virginia energy legislation is expanding renewable energy development while defining the role and authority of local governments through the passage of Senate Bill 347/House Bill 711 (SB347/HB711) and SB443/HB891. Together, these bills establish a standardized regulatory framework that limits local regulation of solar facilities and associated battery energy storage systems, requiring localities ordinances to align new state requirements by July 1st, 2026.

SB347/HB711 requires that ground-mounted solar energy generation facilities 1 MW and greater be reviewed through a special exception process unless they are permitted by right. This applies to zoning districts classified as agricultural, commercial, industrial, or institutional. Localities must update their zoning ordinances to include provisions consistent with the new law addressing setbacks, fencing, panel height, screening, visual impacts, grading, and decommissioning plans. The bill also requires localities to report their special exception decisions to the State Corporation Commission (SCC), including reasons for denial, consistency with the Comprehensive Plan, and the date of the most recent plan update.

SB443/HB891 requires that battery energy storage systems be permitted as an accessory use to any solar facility which has already received special exception approval, provided the system is located on the same parcel. As a result, these systems do not require separate special exception or

additional land use approval from the Board of Supervisors. However, they remain subject to applicable federal, state, and local safety, fire, and environmental regulations.

Need for Board Action:

These new and amended Code of Virginia provisions necessitate amendments to the County's Zoning Ordinance, including the addition of new definitions to Article 12, the establishment of supplemental use regulations for solar and battery energy storage systems in Article 4, ensuring that such uses listed in Article 2 are permitted through a Special Exception Permit in accordance with SB347/HB711, and table of uses as described in appendix

Recommendation

The Land Use Administration staff recommend that the Westmoreland County Planning Commission forward **Case # 2605-CA-01** Proposed text amendment to the Westmoreland County Zoning Ordinance to align with state code involving the adoption of policies, uses, and definitions related to Solar Energy Facilities and Battery Energy Storage Facilities, to the Westmoreland County Board of Supervisors with a recommendation of Approval.

Attachments:

Solar and Battery Energy Storage Proposed Text Amendment
SB 347/HB 711
SB 443/HB 891

Article 12 – Definitions

Agrivoltaics: The intentional co-location of agricultural production and solar energy generation on the same land that (i) is designed to prioritize and sustain agricultural productivity while integrating renewable energy, (ii) allows the ongoing production and sale of agricultural products throughout the solar array's life, (iii) is a part of an existing farm business, and (iv) ensures flexibility for farmers to adapt to market conditions and support operational needs. "Agrivoltaics" does not include solar energy generation that replaces the farmer's primary income.

Solar Energy Facility: A facility comprised of solar energy generating devices utilizing sunlight as an energy source to heat or cool buildings, heat or cool water, or produce mechanical power by means of any combination of collecting, transferring, or converting solar generated energy. The term applies to, but is not limited to, solar photovoltaic systems, solar thermal systems, and solar hot water systems. The following words, terms and phrases pertaining to solar energy facilities, when used in the Westmoreland County Zoning Ordinance or in the administration thereof, shall have the following meanings ascribed to them:

Accessory Solar Facility: A solar energy facility comprised of photovoltaics attached to and/or incorporated into building components and/or materials for structures, such as roofs or shingles, or ground-mounted, along with supporting equipment, the facility being an accessory use to the principal use of the property and designed and intended to serve the electricity or thermal needs of the property. Supporting equipment commonly includes photovoltaic panels, racking systems, inverters, performance monitoring, and energy storage systems. Such systems are commonly connected to the electrical distribution network behind the electric meter.

Photovoltaic (PV): Materials and devices that absorb sunlight and convert it directly into electricity.

Utility-Scale Solar Facility: A solar energy facility, other than an accessory solar facility, comprised of ground mounted photovoltaics generating electricity for distribution to the power grid or distribution network, designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located. Supporting equipment and facilities commonly include photovoltaic panels, racking systems, inverters, access roads, associated equipment necessary to tie into the grid or distribution network, substations, switchyards, fencing, screening and buffering.

Battery Energy Storage Facility: A facility comprised of energy storage equipment and technology that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored. Such facilities may include, but are not limited to, battery cells, modules, racks, inverters, power conversion systems, battery management systems, thermal management systems, fire detection and suppression systems, and associated control and safety equipment. A battery

energy storage facility may be a principal use, an accessory use, or a component of another energy facility, including a solar energy facility. The following words, terms and phrases pertaining to battery energy storage facilities, when used in the Westmoreland County Zoning Ordinance or in the administration thereof, shall have the following meanings ascribed to them:

Accessory Battery Energy Storage Facility: A battery energy storage facility that is accessory to the principal use of a property and is designed and intended to store energy for use on-site, including for load management, backup power, or integration with on-site energy generation systems. Such facilities may be located within a building or as a separate structure or container on the same lot. Supporting equipment commonly includes battery cells, inverters, power conditioning systems, monitoring systems, and safety equipment. These systems are typically connected to the electrical system of the property behind the electric meter.

Utility-Scale Battery Energy Storage Facility: A battery energy storage facility, other than an accessory battery energy storage facility, that is designed and intended to store, dispatch, or otherwise manage energy for delivery to the electrical grid or distribution network, or to serve the energy needs of off-site users. Such facilities may be stand-alone or co-located with other energy generation facilities and commonly include battery storage units or containers, power conversion systems, transformers, substations, switchgear, access roads, and associated equipment necessary to connect to the electrical grid or distribution network, as well as fencing, screening, and buffering.

Article 4 Supplemental Use Regulations

4-11 Solar Energy Facilities & Battery Energy Storage Facilities

4-11.1 Applicability and Permitting.

The requirements set forth in this Section shall govern the location, siting, development, construction, installation, operation and decommissioning of solar energy facilities and battery energy storage facilities in the County. Solar facilities and battery energy storage facilities are subject to a Special Exception Permit as specified within the applicable zoning districts in Article 2, Base District Regulations¹. Regardless of whether uses are allowed by-right or only with a Special Exception Permit, a Zoning Permit is required pursuant to Section 10-3.4, Zoning Permits.

¹ Pursuant to Code of Virginia requirements, Accessory Solar Facilities will need to be allowed in all zoning districts. Utility-Scale Solar Facilities will need to be allowed in all Agricultural, Commercial, Industrial, and Institutional zoning districts. Accessory BESF should be allowed in all zoning districts; however, standalone Accessory BESF could be prohibited. Utility-Scale BESF is not required to be allowed as standalone; however, through definitions and/or standards, ordinances need to allow for Utility-Scale BESF as accessory to any Utility-Scale Solar Facility.

4-11.1.1 Utility-Scale Battery Energy Storage Facility as Accessory to Utility-Scale Solar Facility.

1. A utility-scale battery energy storage facility project shall be deemed as a permitted accessory use on any parcel of land that is subject to an approved Special Exception Permit for a solar facility, if the battery energy storage project is located within the boundaries of the parcel covered by the existing Special Exception Permit.
2. Special Exception Permits for Utility-Scale Solar Facilities approved after **[THE DATE OF ADOPTION OF THIS ORDINANCE]** shall anticipate the addition of Utility-Scale Solar Facilities, if not incorporated within the application, and shall impose the standards of subsection 4-11.5, Minimum Development Standards for Utility-Scale Battery Energy Storage Facilities, as conditions.

4-11.2 Application Process.

In addition to application materials required as outlined in subsection 4-11.3, Application Requirements, and procedural requirements as outlined in Article 10, Section 10-3.12, Special Exception Permit, all Utility-Scale Solar Facilities or Utility-Scale Battery Energy Storage Facilities for which a Special Exception Permit is required shall be subject to the following procedural requirements:

4-11.2.1 Pre-Application Meeting. Prior to submission of a Special Exception Permit application, a pre-application meeting shall be held with the Zoning Administrator to discuss the location, scale, and nature of the proposed use, what will be expected during that process, as well as the potential for a siting agreement, if applicable.

4-11.2.2 Third-Party Review. The County is authorized to hire an independent third-party consultant, and may choose to do so at their discretion, to review any Special Exception Permit application and all associated documents for completeness and compliance with this section and any other state and federal codes, as well as review, comment, and make recommendations with respect to the Special Exception Permit application. Any costs associated with the review shall be paid by the applicant. Any payment of such fees would in no way be a substitute of payment for any other application review fees otherwise required by the County.

4-11.2.3 Completeness/Compliance Review. Upon submission, the Zoning Administrator and/or a third-party reviewer shall review the application and determine whether it is complete (i.e., that all required application materials have been submitted) and compliant (i.e., that the application and proposed use meet all required regulations and standards). Based upon this review, the Zoning Administrator may determine that an application is incomplete and/or noncompliant and either reject the application or require the applicant to submit additional or revised application materials prior to proceeding to further review.

4-11.2.4 Neighborhood Meeting. Following application submission and at least 14 days prior to the review conducted pursuant to 10-3.14, Commission Permit ("2232 Review"), a public neighborhood meeting shall be held to give the community an opportunity to hear from the applicant and to ask questions regarding the proposed application. The meeting shall adhere to the following requirements:

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 14 but no more than 21 days, in advance of the meeting date.
2. The date, time and location of the meeting shall be advertised in a newspaper of record in the County by the applicant, at least 14 but no more than 21 days, in advance of the meeting date.
3. The meeting shall be held 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 the Planning and Community Development Department with a summary of any input received from members of the public at the meeting and copies of any written submissions from the public.

4-11.2.5 Commission Permit. A Commission Permit shall be required pursuant to Section 10-3.14, Commission Permit ("2232 Review").

- 4-11.2.6 Consideration of Special Exception Permit by the Planning Commission and Board of Supervisors.** The Planning Commission and Board of Supervisors shall consider, review, and take action on Special Exception Permit applications as specified by 10-3.12, Special Exception Permit.
- 4-11.2.7 Siting Agreement.** For Solar Energy Generating Facilities requiring a Special Exception Permit, applicants shall enter into a siting agreement with the County, pursuant to and as authorized by Sections 15.2-2316.6 through 15.2-2316.9, Siting of Solar Projects and Energy Storage Projects, of the Code of Virginia, unless this requirement is waived by the Board of Supervisors.
- 4-11.2.8 Report Findings to State Corporation Commission (SCC).** Not more than 60 days following the decision on a Special Exception Permit, the County Board of Supervisors shall furnish the Virginia State Corporation Commission with a record of the decision. Such record shall include:
1. The reason for any adverse decision;
 2. Any finding of nonconformity with the local comprehensive plan; and
 3. The date of the last revision to the comprehensive plan.

4-11.3 Application Requirements.

In addition to application materials required pursuant to Article 10, Section 10-3.12, Special Exception Permit, all Special Exception Permit applications for solar energy facilities or battery energy storage facilities for which a Special Exception Permit is required shall include the following materials and information, to be furnished by the applicant with any costs in developing, procuring, or preparing such materials and information to be borne by the applicant:

- 4-11.3.1 Project Narrative.** A detailed narrative identifying:
1. The applicant, facility owner, site owner, and operator, if known at the time of application.
 2. A description of the proposed energy facility, including an overview of the project and its location.
 3. The project area and the area to be fenced.
 4. The current use of the site.
 5. The estimated time for construction, any phasing schedule, location of staging areas or off-site storage

- facilities, and proposed date for commencement of operations.
6. The planned maximum rated capacity of the facility.
 7. The approximate number, representative types and expected footprint of equipment to be constructed, including the maximum number of photovoltaic panels, battery cells/modules.
 8. Specifications for proposed equipment, including the manufacturer and model, materials, color and finish, and racking type for solar facilities.
 9. Ancillary facilities; and
 10. The manner and location of electrical transmission, including the location of the proposed electrical distribution or grid interconnection, substations, and switchyards.

4-11.3.2 Concept Plan. A concept plan as a visual summary of the project. The concept plan shall be prepared by a professional, state-licensed engineer and shall include the following:

1. Identification of subject parcels and property lines and/or leased portions of parcels and limits of leased areas, and fenced areas, along with areas in acreage and square feet;
2. Identification of required setbacks;
3. Existing and proposed buildings and structures, including identification of buildings, structures, or features to be removed or retained; preliminary locations, total area, and heights of proposed solar panels, ancillary equipment, and other proposed structures; 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, and existing landforms (i.e., natural berms, hills, rocky outcrops, etc.) intended to be used as a buffer or screening;
5. Existing and proposed access roads, drives, turnout locations, and parking;
6. Location of substations, electrical cabling from the facility to substations, ancillary equipment, buildings, and structures, including those within any applicable setback;
7. Fencing or other methods of ensuring public safety;
8. Proposed lighting;

9. Aerial imagery showing the proposed location and boundaries of the facility, fenced areas, ingress/egress, and the closest distance to all adjacent property lines and buildings, noting their uses; and
10. Additional information may be required 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 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.

4-11.3.3 Grading Plan and Stormwater Management Report. A draft grading plan and stormwater management report. The grading plan shall identify:

1. Existing and proposed contours;
2. Existing and proposed steep slopes (grade of 15% or greater);
3. Locations and amount of topsoil to be stripped and stockpiled onsite;
4. Percent of the site to be graded;
5. Any import or export of soil; and
6. Indicate natural flow patterns in drainage design and amount of impervious surface.

The draft stormwater management report shall identify project compliance with subsection 4-11.4.9, Stormwater Management & Land Disturbance.

4-11.3.4 Landscape Plan. A draft landscape plan identifying:

1. Compliance with Article 6 Landscaping;
2. The location of existing vegetation and the limits of proposed clearing;
3. All proposed ground cover, screening and buffering materials, landscaping, and elevations;
4. Locations of wildlife corridors; and
5. Landscape maintenance requirements.

4-11.3.5 Viewshed Analysis. An analysis demonstrating that visual impacts are minimized through solar panel placement,

height, landscaping, and screening. Such analysis shall account for existing vegetation and planned visual buffers, and shall specifically identify any visual impacts on public parks, scenic rivers and byways, and historic structures or sites listed on or eligible for the National Register of Historic Places or a County register of historic places.

4-11.3.6 Community Impact Assessment. An assessment of the impact of the proposed facility on the immediate vicinity as well as the greater County. The assessment shall be prepared by one or more individuals or firms acting within their professional competency, shall be presented in written form, and shall analyze in specific terms the probable impact of the facility on the vicinity and community over time. Specific attention, as may be appropriate to the individual proposal, should be given but not be limited to the following elements:

1. Consistency of the proposed facility with applicable policies contained in the County's Comprehensive Plan;
2. Anticipated direct revenues to the county from real estate and personal property taxes;
3. An assessment of employment opportunities to be created by the proposed development;
4. An assessment of the short- and long-term economic impact of the proposed development;
5. If the development is replacing an existing enterprise, including agriculture and forestry, an assessment of the impact the current enterprise has on the local economy and how the local economy will be impacted by the loss of the existing enterprise;
6. Fire, rescue, and law enforcement requirements as compared to existing capacities and facilities;
7. Sewer and stormwater management needs as compared to existing capacities and facilities to address a) adequacy of existing utilities, water, sewer, public services, and public facilities in the vicinity of the development, b) public and private improvements both offsite and onsite that are proposed for construction and a cost estimate for providing these improvements, and c) other public and quasi-public facility and service impacts including refuse collection and disposal systems intended to serve the development;
8. Socioeconomic changes and impacts to result from the proposed development;

9. The costs in both capital and operating funds of providing services to the proposed development; and
10. What efforts, if any, are proposed to mitigate the service demands or costs to the county.

The Zoning Administrator may waive certain elements of the impact assessment where the nature of the proposed facility makes such elements inapplicable.

4-11.3.7 Environmental Impact Assessment. An assessment of the impact of the proposed facility to include the following:

1. A statement regarding any site and viewshed impacts, including direct and indirect impacts to national or state forests and grasslands, national or state parks, County parks, wildlife management areas, conservation easements, recreational areas, or any known historic or cultural resources within 5 miles of the project parcels;
2. An inventory of wetlands, rivers, streams, and floodplains, to be delineated and mapped, in order to provide baseline data for the evaluation of the current proposal and evaluation of the satisfactory decommissioning as required. The inventory and mapping of floodplain shall not be construed to allow development within regulatory flood plain areas without a flood plain development permit; and
3. For projects less than 150 MW that disturb more than 10 acres of USDA designated prime top tier farmland and/or more than 50 acres of contiguous forest lands, identification of planned mitigation actions to comply with state permit by rule requirements for small renewable energy projects.

4-11.3.8 Traffic and Transportation Assessment. An assessment of the impact of the proposed facility, including construction processes, on traffic and transportation infrastructure, to include the following:

1. The time of day that operations and construction transport activities will occur;
2. A map showing the desired primary and secondary transportation routes for operations and construction traffic;
3. Characteristics of operations and construction loaded vehicles, including:

- i. Length, height, width, curb weight;
- ii. Maximum load capacity;
- iii. Number of axles, including trailers;
- iv. Distance between axles and
- v. Vehicle registration plates

4. Haul route(s)

After review, the County may require a full traffic study to be accepted by an engineer approved by the County.

4-11.3.9 Decommissioning and Reclamation Plan. A draft decommissioning and reclamation plan certified by an engineer with a professional engineering license in the Commonwealth of Virginia, to include the following and demonstrating compliance with the requirements of subsection 4-11.6, Decommissioning and Reclamation:

1. The anticipated life of the project, along with the basis for determining the anticipated life of the project;
2. The estimated decommissioning cost in current dollars;
3. How said estimate was determined;
4. The method of ensuring that funds will be available for decommissioning and restoration;
5. The method that the decommissioning cost will be kept current;
6. The manner in which the facility will be decommissioned and the site restored; and
7. Anticipated plans for the disposal and/or recycling of project equipment and components, including the identification of disposal and/or recycling sites located in the County.

4-11.4 Minimum Development Standards for Utility-Scale Solar Facilities.

All utility-scale solar facilities shall comply with the following criteria:

4-11.4.1 Compliance with building codes and standards. Solar facilities 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. Facilities subject to a **Special Exception Permit** shall be constructed and maintained in substantial compliance with the approved Concept Plan.

4-11.4.2 Multiple uses. Utility-scale solar facilities may be located on parcels with other active agricultural, residential, commercial, industrial, or institutional uses.²

4-11.4.3 Setbacks. Setback distances shall be measured from the nearest edge of the equipment as follows:

1. 200 feet³ from the nearest point on the outer wall of existing occupied community buildings and dwellings on non-participating properties.
2. 100 feet from the outside edge of the roadbed of any road abutting the property.
3. For projects not greater than 25 megawatts, 50 feet from the edge, and for projects greater than 25 megawatts, 100 feet from the edge, of tidal wetlands or nontidal wetlands, as defined in 9VAC25-830, or from the top of bank of perennial streams, as defined in § 62.1-44.122 of the Code of Virginia. The term “equipment” as it applies to this setback is limited to solar panels, racking equipment, and inverters.
4. For projects of any capacity within Chesapeake Bay Preservation Areas, 125 feet from the edge of tidal wetlands, nontidal wetlands, or from the top of bank of perennial streams. The term “equipment” as it applies to this setback is limited to solar panels, racking equipment, and inverters.
5. 75 feet measured from the nearest shared property line for nonparticipating properties, except that the owner of a nonparticipating property may waive this setback requirement by written agreement.
6. Setbacks shall not be required for internal boundaries between adjacent project participating parcels.
7. ⁴Access, erosion and stormwater structures, and interconnection to the electrical grid may be made through setback areas provided that such are generally perpendicular to the property line.

4-11.4.4 Height. The height of solar panels shall not exceed 25 feet above ground when the arrays are at full tilt, except in cases where a height variance is necessary to allow for agrivoltaics activity below or in proximity to the panels.

² Need to confirm that this provision complies with bills/law

³ This (and any of the following with “between”) could be an absolute distance of 200’, or 150’, or any distance in between (i.e., “200 feet from the nearest point on the outer wall of existing occupied community buildings and dwellings on non-participating properties.”)

⁴ Need to confirm that this provision complies with bills/law

- 4-11.4.5 Buffer and Screening.** Vegetative visual screening requirements shall not be required to exceed three feet at planting, shall be between 25 and 50 feet wide. Screening methods may include:
1. Facilities shall provide a visual buffer/screening 50 feet in width.
 2. Preexisting natural or manmade visual barriers may satisfy screening requirements.
 3. Trees and shrubs planted to provide for screening must be no less than three (3) feet in height at the time of planting.
 4. All trees and shrubs at the time of planting shall accommodate adequate screening or buffering at the end of five years of planting.
 5. Vegetation used to establish a visual screen shall not be trimmed to stunt upward and outward growth or to otherwise limit the effectiveness of the visual screen.
 6. Required screening may be accomplished on any property with the consent of the property owner.
- 4-11.4.6 Fencing.** Fencing for the facility shall comply with Code of Virginia § 55.1-2804, the latest version of the National Electrical Safety Code or any applicable successor standard regarding requirements for limiting access to facilities, and the Uniform Statewide Building Code (Sec. 36-97 et seq.).
- 4-11.4.7 Wildlife Corridors.** Facilities shall provide for wildlife passage where needed by limiting fencing to the areas in reasonable proximity to arrays and interconnection equipment to the extent practicable and consistent with safety and security requirements. The facility shall prioritize open wildlife access to riparian areas, wetlands, streams, and other areas not in proximity to panels. Proposed wildlife corridor(s) shall be shown on the Special Exception Permit Concept Plan and eventual land disturbance/site plan submitted to the County.
- 4-11.4.8 Lighting.** Facilities shall implement light intensity dimming solution technology that provides a means of tailoring the intensity level of lights according to surrounding visibility.
- 4-11.4.9 Stormwater Management & Land Disturbance.**
1. Facilities shall comply with all Department of Environmental Quality stormwater regulations as established in 9VAC25-880.

2. Facilities shall minimize new impervious surface on sites and under solar panels.
3. Land disturbance, including site grading, construction, and landscaping, shall be conducted in compliance with a stormwater pollution prevention plan.
4. Topsoil shall not be removed from the project site. Topsoil shall be returned to disturbed areas from stockpiles as quickly as site conditions allow, unless returning soil would cause adverse impacts to topsoil integrity or is otherwise not practicable for construction activities.
5. Site stabilization shall occur as the site is developed, following appropriate stabilization timelines as identified in the General Permit for Discharges of Stormwater from Construction Activities, and shall not be delayed until site construction is completed.
6. Soils shall be decompacted as necessary and feasible for re-vegetation after construction has concluded.
7. When all land-disturbing activities at the construction site have been completed, the facility shall initiate permanent stabilization to provide vegetative ground cover that provides a minimum level of coverage over the project site. No less than 75 percent vegetative cover shall be provided with no significant bare areas, with vegetative cover mature enough to survive and will inhibit erosion.

4-11.4.10 Vegetation & Planting.

1. The use of native and naturalized plants is encouraged and invasive plants as established pursuant to § 10.1-104.6:2 shall be prohibited.
2. For projects or portions of projects not used for animal grazing, co-located crop production, native and naturalized pollinator plant species, or native and naturalized meadow species shall be planted, except for in the area directly beneath panels, and maintained throughout the solar project's life.
3. Seed mixes shall include a diversity of species with varied bloom times.
4. Mowing shall be limited and performed on a schedule that promotes the establishment of the native plantings, controls invasive species, and minimizes impacts to wildlife.

4-11.5 Minimum Development Standards for Utility-Scale Battery Energy Storage Facilities.

All utility-scale battery energy storage facilities, including those accessory to utility-scale solar facilities, shall comply with the following criteria:

- 4-11.5.1 General Requirements.** Battery energy storage facilities shall be subject to the minimum development standards contained in sections: 4-11.4.2; 4-11.4.3; 4-11.4.4; 4-11.4.5; 4-11.4.6; 4-11.4.8.
- 4-11.5.2 Configuration.** Battery energy storage facilities shall be configured so that battery cells shall be placed in a Battery Energy Storage System ("BESS") with a Battery Management System ("BMS"). The BESS shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire suppression systems.
- 4-11.5.3 Construction, Maintenance and Operation.** Battery Energy Storage Facilities shall be constructed, maintained and operated in accordance with applicable codes and standards including but not limited to the then applicable fire, electrical and building codes adopted by the County; National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, 2020 Edition and subsequent additions; Underwriters Laboratories (UL) 9540A Ed. 4-2019, Standard for Test Method for Evaluating Thermal Runway Fire Propagation in Battery Energy Storage Systems and subsequent editions; and, unless otherwise required by such regulations and codes:
1. Each individual battery shall have 24/7 automated fire detection and extinguishing technology built in;
 2. The BMS shall monitor individual battery module voltages and temperatures, container temperature, and humidity, off gassing of combustible gas, fire, ground fault and DC surge, and door access;
 3. The BMS shall be capable of shutting down the system before thermal runaway takes place;
 4. Access to all batteries and electrical switchgear shall be from the exterior for normal operation and maintenance. Access to the container interior shall not be permitted while the system is in operation except for safety personnel and first responders; and

5. Signage shall include the following information: the type of technology associated with the battery energy storage systems; any special hazards associated; the type of suppression system installed in the area of the battery energy storage system; 24-hour emergency contact information, including reach-back phone number. Additionally, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
 6. Battery Storage Facilities must be setback at least 100 ft. from all property lines.
 7. Due to their potentially combustible nature, the siting of Battery Storage Facilities must:
 - i. Buffer the facility from the surrounding areas by siting towards the interior of the lot(s); and
 - ii. Take advantage of existing topography, structures, and vegetation to provide screening.
-
5. Public water, or an existing commercial well, and fire hydrants must be available to the property.
 6. All on-site utility lines must be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way
 7. Screening and/or landscaping will be necessary to ensure that facilities are not visible to the extent possible. Facilities must be fully screened on all sides from view.
 - i. All screening and landscaping must be in accordance with Article 8, Community Design Standards, of this Ordinance.
 - ii. Resource Protection Areas will not be counted toward buffer requirements.
 - iii. Areas within 20 ft. on each side of Battery Energy Storage Facility must be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as

ground covers will be permitted to be exempt, if they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

8. The owner or operator must coordinate with the **Emergency Services** to provide materials, education, and/or training on how to safely respond to on-site emergencies. Emergency personnel must be given a key or code to access.
9. The facilities must be enclosed by security fencing.
 - i. All security fencing must be a minimum of 6 ft. in height and topped with razor/barbed wire, as appropriate.
 - ii. All security fencing must be placed behind the buffer and screened from view.
 - iii. All security fencing must be constructed so as to substantially lessen the likelihood of entry by unauthorized individuals.
 - iv. A performance bond reflecting the costs of anticipated security fence maintenance must be posted and maintained.
 - v. Failure to maintain the security fencing will result in revocation of the Zoning Use Permit and the facility's decommissioning.

4-11.6 Decommissioning and Reclamation.

- 4-11.6.1** Solar and battery energy facilities which have reached the end of their useful life or have not been in active and continuous service for a period of 6 months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
- 4-11.6.2** The owner or operator shall notify the Zoning Administrator by certified mail of the proposed date of discontinued operations and plans for removal.
- 4-11.6.3** Decommissioning shall be performed in compliance with an approved Decommissioning Plan, which must be submitted for approval by the Board of Supervisors prior to the issuance of a Zoning Permit. The draft Decommissioning

Plan and the final Decommissioning Plan must demonstrate compliance with the requirements of this section. The Board of Supervisors may approve any appropriate amendments to or modifications of the Decommissioning Plan.

- 4-11.6.4** Decommissioning shall include removal of all 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 uses. The site shall be graded and re-seeded to restore it to as natural a condition as possible, unless the landowner requests in writing that the access roads or other land surface areas not be restored, and this request is approved by the Board of Supervisors (other conditions might be more beneficial or desirable at that time).
- 4-11.6.5** The site shall be re-graded and re-seeded to as natural condition as possible within 12 months of removal of facilities. Re-grading and re-seeding shall be initiated within a 6-month period of removal of equipment.
- 4-11.6.6** Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the Zoning Administrator.
- 4-11.6.7** Hazardous material from the property shall be disposed of in accordance with federal and state law.
- 4-11.6.8** The estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a federally insured financial institution approved by the County.
1. 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.
 2. 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 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.
3. 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, plus 10%.
 4. The owner or occupant 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.
 5. 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 approved by the County.
 6. If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the surety and the County or hired third party may enter the property to physically remove the installation.

ADDRESS THROUGH CONDITIONS

1. Noise/Sound. Audible sound from solar facilities shall not exceed sixty (60) decibels, as measured from any adjacent non-participating landowners' property line. This level may be exceeded during short-term exceptional circumstances, such as severe weather. The owner or operator of a solar facility shall measure and document, on a continuing basis, which shall not be less frequent than annually, or upon request by the County, that noise levels comply with the decibel limit established herein; any violation will constitute a zoning violation.
2. Groundwater Monitoring. Ground water monitoring to assess the level of groundwater contamination shall take place prior to, and upon completion of construction of a project, throughout the area of the facility. Ground water monitoring shall take place every five years of the operation of the

facility, and upon completion of decommissioning. Results from said monitoring shall be delivered to the County.

3. Coordination of Local Emergency Services; Emergency Response Plan. Prior to completion of construction, the owner or operator of a facility shall coordinate with the County's emergency services to provide materials, education, and/or training on how to safely respond to on-site emergencies, and to develop, implement and periodically update, including exercising of, an emergency response plan. Emergency personnel will be given a key or code to access the property in case of an on-site emergency.
4. Monitoring and Maintenance. The owner or operator shall maintain the solar facility in good condition. Such monitoring and maintenance shall include, but not be limited to, painting, evaluating the structural integrity of equipment, foundations, structures, fencing and security barriers, as applicable, maintenance of the buffer areas, and landscaping. Site access shall be maintained to a level acceptable to the County. The project owner shall be responsible for the cost of maintaining the facility and access roads, and the cost of repairing damage to private roads occurring as a result of construction and operation. Failure to maintain the Solar Facility may result in revocation of the Special Exception Permit and the facility's decommissioning.
5. Liability Insurance. The owner or operator of a facility shall provide to the Zoning Administrator written evidence of liability insurance in an amount acceptable to the purchasing utility provider prior to beginning construction and before the issuance of a zoning permit.
6. Damaged Panels; Storage. All physically damaged panels or any portion or debris thereof shall be collected by the facility operator and removed from the site or stored on site in a location protected from weather and wildlife and from any contact with ground or water until removal from the site can be arranged; storage of damaged panels or portion or debris thereof shall not exceed thirty (30) days beyond any required period for insurance, warranty claim or in event of force majeure, for which reasonable documentation shall be submitted to and approved by the Zoning Administrator. For the purposes of the foregoing, force majeure shall be defined to include strikes, lockouts or other labor disturbances, inability to secure labor or materials in the open market, acts of God or other element of nature or accidents, delays or conditions arising from or relating to acts of war, domestic or international terrorism, pandemic, civil disturbances or riots, or any other matter or condition that is beyond the reasonable anticipation and control of the Applicant.
7. Compliance with Local, State, and Federal Requirements. During the term of issued Special Exception Permits, operation of facilities shall fully

comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration ("FAA"), State Corporation Commission ("SCC") or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.

8. Inspections.
 - a. The applicant, owner, or operator will allow designated County representatives or employees access to a facility for inspection purposes. The County representative or employee will provide the facility operator with 24-hour notice prior to such inspection when practicable.
 - b. The applicant or owner of a facility shall reimburse the County its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.
9. Change in Ownership. Notice of any change of ownership of the facility shall be provided to the County within ten (10) working days of any such change.

VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1005

An Act to amend and reenact §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 of the Code of Virginia, relating to local regulation of solar facilities; special exceptions.

[S 347]

Approved April 22, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2241.2. Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.

A. As used in this section, unless the context requires a different meaning:

"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to § 15.2-2232 and therefore subject to this section. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

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

B. As part of the local legislative approval process or as a condition of approval of a site plan, a locality shall require an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning, and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.

C. *The owner, lessee, or operator shall hire a professional engineer licensed in the Commonwealth to update the decommissioning plan cost estimate and corresponding approved financial instrument every five years after the approval of the first decommissioning plan to adjust for inflation, account for advancements in technologies and processes for decommissioning, salvaging, or re-powering of renewable energy facilities, and make any other necessary changes. The decommissioning plan shall provide for the removal of the facility's equipment from the landowner's property and return of the property to a useful condition similar to the preconstruction condition unless otherwise agreed to by the landowner. After the decommissioning process is complete, the facility shall comply with all stormwater provisions in state law. The project shall provide an up-to-date decommissioning plan to the locality any time there is project ownership outside of the current developer. Notice shall be provided to the local government within 30 days of the sale or transfer of the lease or property, and a new financial guarantee shall be provided by the new leaseholder or property owner.*

§ 15.2-2288.7. Local regulation of solar facilities.

A. An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned residential shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned residential, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable

zoning regulations of the locality.

B. An owner of real property zoned agricultural may install a solar facility on the roof of a residential dwelling on such property, or on the roof of another building or structure on such property, to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned agricultural and to be operated under § 56-594 or 56-594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned agricultural, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be ~~subject to any applicable zoning regulations of the locality considered pursuant to § 15.2-2288.8 unless otherwise permitted by right.~~

C. An owner of real property zoned commercial, industrial, or institutional may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned commercial, industrial, or institutional shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned commercial, industrial, or institutional, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be ~~subject to any applicable zoning regulations of the locality considered pursuant to § 15.2-2288.8 unless otherwise permitted by right.~~

D. An owner of real property zoned mixed-use may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned mixed-use shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned mixed-use, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

E. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any zoning classification in addition to that provided in this section. A locality may also, by ordinance, require a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance in addition to other applicable laws and regulations affecting such disposal.

§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.

A. ~~Any~~ *Unless otherwise provided by right, each locality may grant shall require* a special exception pursuant to §§ 15.2-2204, 15.2-2286, and 15.2-2288.7 or a siting agreement pursuant to § 15.2-2316.7 and include in its zoning ordinance ~~reasonable~~ regulations and provisions *consistent with this section* for a special exception as defined in § 15.2-2201, for any solar photovoltaic ~~(electric energy) project or energy storage~~

project. For the purposes of this section, "energy storage project" means energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored "solar photovoltaic project" means a ground-mounted solar facility with a generating capacity of one megawatt or more that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facility is located.

Any special exception granted pursuant to this section is an amendment to the zoning ordinance pursuant to subdivision A 7 of § 15.2-2286 and shall comply with the following criteria. Where numerical ranges are attached to criteria, localities may choose to establish an ordinance that specifies any number within the applicable range that they deem appropriate for their community. In the issuance of a special exception, a variance from these ordinance criteria may be implemented only with a written agreement of the locality, the property owner or their agent, and the applicant. Nothing in this section shall (i) be construed to relieve projects of the responsibility to comply with all relevant state and federal laws, regulations, and permits, including those related to tree canopy; (ii) require a locality to approve a special exception application considered pursuant to this section; (iii) be construed to prohibit a locality from permitting a solar photovoltaic project or energy storage project by right; or (iv) prohibit the owner of a proposed solar photovoltaic project and a locality from entering into a siting agreement that provides less stringent restrictions than those specified under this subsection.

1. Setback distances shall be measured from the nearest edge of the equipment as follows: (i) between 150 and 200 feet from the nearest point on the outer wall of existing occupied community buildings and dwellings on nonparticipating properties; (ii) between 50 and 100 feet from the outside edge of the roadbed of any road abutting the property; (iii) for projects not greater than 25 megawatts, 50 feet from the edge, and for projects greater than 25 megawatts, 100 feet from the edge, of tidal wetlands or nontidal wetlands, as defined in 9VAC25-830, or from the top of bank of perennial streams, as defined in § 62.1-44.122; (iv) for projects of any capacity within Chesapeake Bay Preservation Areas, between 100 and 125 feet from the edge of tidal wetlands, nontidal wetlands, or from the top of bank of perennial streams; and (v) between 50 and 75 feet measured from the nearest shared property line for nonparticipating properties. Nothing in this subdivision shall preclude the owner of a nonparticipating property from waiving the foregoing setback requirements by written agreement. Setbacks shall not be required for internal boundaries between adjacent participating parcels. For purposes of clauses (iii) and (iv), "equipment" is limited to solar panels, racking equipment, and inverters.

2. Fencing for the facility shall comply with § 55.1-2804, the latest version of the National Electrical Safety Code or any applicable successor standard regarding requirements for limiting access to facilities, and the Uniform Statewide Building Code (§ 36-97 et seq.). Vegetative visual screening requirements shall not be required to exceed three feet at planting, shall be between 25 and 50 feet wide, and shall allow for consideration of preexisting natural or manmade visual barriers.

3. The height of solar panels shall not exceed 25 feet above ground when the arrays are at full tilt, except in cases where a height variance is necessary to allow for agrivoltaics activity below or in proximity to the panels. For purposes of this section, "agrivoltaics" means the same as that term is defined in § 10.1-1197.5.

4. Visual impacts of facilities on public parks, scenic rivers and byways, and historic structures or sites listed on or eligible for the National Register of Historic Places or a county register of historic places shall be minimized. A locality may request a viewshed analysis as part of the special exception application to assure that visual impacts are minimized through solar panel placement, height, landscaping, and screening. Such analysis shall account for existing vegetation and planned visual buffers. Such screening may be accomplished on any property with the consent of the property owner.

5. The facility shall implement light intensity dimming solution technology that provides a means of tailoring the intensity level of lights according to surrounding visibility.

6. The facility shall comply with all Department of Environmental Quality stormwater regulations as established in 9VAC25-880.

7. The facility shall minimize new impervious surface on the site and under its solar panels.

8. Land disturbance, including site grading, construction, and landscaping, shall be conducted in compliance with a stormwater pollution prevention plan. Topsoil shall not be removed from the project site. Topsoil shall be returned to disturbed areas from stockpiles as quickly as site conditions allow, unless returning soil would cause adverse impacts to topsoil integrity or is otherwise not practicable for construction activities. Site stabilization shall occur as the site is developed, following appropriate stabilization timelines as identified in the General VPDES Permit for Discharges of Stormwater from Construction Activities, and shall not be delayed until site construction is completed. The facility shall decompact soil as necessary and feasible for re-vegetation after construction has concluded.

9. When all land-disturbing activities at the construction site have been completed, the facility shall initiate permanent stabilization to provide vegetative ground cover that provides a minimum level of coverage over the project site. An ordinance may require up to 75 percent vegetative cover with no significant bare areas that is mature enough to survive and will inhibit erosion. The use of native and

naturalized plants shall be encouraged and invasive plants as established pursuant to § 10.1-104.6:2 shall be prohibited. For projects or portions of projects not used for animal grazing, co-located crop production, native and naturalized pollinator plant species, or native and naturalized meadow species shall be planted, except for in the area directly beneath panels, and maintained throughout the solar project's life. The seed mix shall include a diversity of species with varied bloom times. Mowing shall be limited and performed on a schedule that promotes the establishment of the native plantings, controls invasive species, and minimizes impacts to wildlife. All trees and shrubs at the time of planting shall accommodate adequate screening or buffering at the end of five years of planting. Vegetation used to establish a visual screen shall not be trimmed to stunt upward and outward growth or to otherwise limit the effectiveness of the visual screen.

10. The facility shall provide for wildlife passage where needed by limiting fencing to the areas in reasonable proximity to arrays and interconnection equipment to the extent practicable and consistent with safety and security requirements. The facility shall prioritize open wildlife access to riparian areas, wetlands, streams, and other areas not in proximity to panels.

11. The facility shall comply with all applicable state and federal labor and employment laws, including apprenticeships and labor standards necessary to achieve any available tax credit bonuses found in 26 U.S.C. §§ 45Y and 48E.

12. A locality shall require an applicant to enter into a written agreement to decommission equipment, facilities, or devices pursuant to § 15.2-2241.2.

B. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for an energy storage project. For the purposes of this section, "energy storage project" includes energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

~~B.~~ C. The governing body of such locality may grant a condition that includes (i) dedication of real property of substantial value or (ii) 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.

~~C.~~ D. Once a condition is granted pursuant to subsection ~~B~~ C, such condition shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

E. The governing body of such locality shall furnish the State Corporation Commission a record of special exception decisions reached pursuant to this section not more than 60 days after such decision is made. The record shall include (i) the reason for any adverse decision, (ii) any finding of nonconformity with the local comprehensive plan, and (iii) the date of the last revision to the comprehensive plan.

2. That the State Corporation Commission shall compile and maintain on the Commission's public website a searchable database of all solar photovoltaic project special exception decisions and the reasons for any adverse decisions made over a period of not less than five years. The Commission shall furnish to each locality a standardized form for submitting decision records by July 1, 2026.

3. That the provisions of this act shall apply to any ground-mounted solar facility with a generating capacity of one megawatt or more for which an application for local approval is filed on or after July 1, 2026, and any such project shall not be governed by any local ordinances inconsistent with this act. Any application for a solar energy facility that has been received and accepted by the relevant authority prior to July 1, 2026, shall be subject to any applicable local ordinances in place at the time the initial application was filed.

VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1011

An Act to amend and reenact § 15.2-2316.9 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7.3 of Chapter 22 of Title 15.2 a section numbered 15.2-2316.10, relating to siting of battery energy storage projects; commercial solar photovoltaic generation facilities; permitted accessory use.

[S 443]

Approved April 22, 2026

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2316.9 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7.3 of Chapter 22 of Title 15.2 a section numbered 15.2-2316.10 as follows:

§ 15.2-2316.9. Effect of executed siting agreement; land use approval.

~~A. Nothing~~ Except as provided in § 15.2-2316.10, nothing in this article shall be construed to exempt an applicant from any other applicable requirements to obtain approvals and permits under federal, state, or local ordinances and regulations. An applicant may file for appropriate land use approvals for the solar project or energy storage project, as applicable, under the regulations and ordinances of the host locality at or after the time the applicant submits its notice of intent to site a solar project or energy storage project as set forth in subsection A of § 15.2-2316.7.

B. Nothing in this article shall affect the authority of the host locality to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.

C. Approval of a siting agreement by the local governing body in accordance with subsection B of § 15.2-2316.8 shall deem the solar project or energy storage project to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.

D. The failure of an applicant and the governing body to enter into a siting agreement may be a factor in the decision of the governing body in the consideration of any land use approvals for a solar project or energy storage project, but shall not be the sole reason for a denial of such land use approvals.

§ 15.2-2316.10. Battery energy storage projects as permitted accessory use to approved solar projects.

A. As used in this section, "special exception" means any special exception or special use permit, conditional use permit, or any other similar approval issued for a solar facility.

B. 1. A battery energy storage project shall be deemed as a permitted accessory use in all zoning districts on any parcel of land that is subject to an approved special exception for a solar facility if the battery energy storage project is located within the boundaries of the parcel covered by the existing special exception and has a rated storage capacity that does not exceed 100 percent of the nameplate generating capacity of the associated solar energy facility.

2. Such battery energy storage project shall not require a special exception or be subject to any other local land use approval. The addition of the battery energy storage project pursuant to this section shall not alter, reduce, or otherwise affect any (i) payment obligations, financial commitments, or other terms contained in the existing special exception associated with the siting agreement for the approved solar project or (ii) state and local tax exemption from which the approved solar project benefits. Nothing in this subdivision shall be construed to affect or alter the state and local tax provisions under § 58.1-3660.

C. A battery energy storage project shall comply with all applicable federal, state, and local safety or fire codes and environmental regulations.

D. Any payment obligations, financial commitments, or other terms contained in the special exception or any associated siting agreement for the approved solar project shall relate and apply only to the approved solar project and shall not affect any battery energy storage project added pursuant to this section.

E. Nothing in this section shall be construed to (i) limit the authority of a host locality to enforce compliance with applicable codes or to ensure the safe operation of the battery energy storage project or (ii) preclude the developer or host locality of a battery energy storage project from negotiating a siting agreement.

2. That any battery energy storage project for which an initial interconnection request has been filed with an electric utility or a regional transmission organization prior to July 1, 2030, and is constructed pursuant to § 15.2-2316.10 of the Code of Virginia, as created by this act, shall be subject to the applicable local ordinance and regulation in effect on July 1, 2026, except as modified under § 15.2-2316.10 of the Code of Virginia, as created by this act.