

VIRGINIA: AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF TAZEWELL COUNTY, VIRGINIA HELD AT THE COUNTY ADMINISTRATION BUILDING, LOCATED AT 197 MAIN STREET, TAZEWELL, VIRGINIA 24651, ON THE 23RD DAY OF JANUARY, 2024, FOLLOWING A PUBLIC HEARING BEFORE THE BOARD HELD ON THE 23RD DAY OF JANUARY, 2024, UPON NOTICE TO THE PUBLIC BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN TAZEWELL COUNTY, THE FOLLOWING ORDINANCE WAS ADOPTED, FOLLOWING PUBLIC HEARING, A MOTION, AND SECOND:

Ordinance No.: 24-002

Date: January 23, 2024

**TAZEWELL COUNTY, VIRGINIA ORDINANCE PERTAINING TO
SOLAR ENERGY FACILITIES**

WHEREAS, the natural, scenic beauty of Tazewell County, Virginia is known regionally, statewide, and nationally, and provides Tazewell County, Virginia a significant advantage regarding economic development and tourism;

WHEREAS, the development of sources of renewable energy, including solar energy, is an important strategic objective for Tazewell County, Virginia in the twenty-first (21st) century;

WHEREAS, the Tazewell County Board of Supervisors (hereafter, “Board of Supervisors”) must balance protectionism and conservationism of Tazewell County, Virginia’s natural scenic beauty with the requirement that Tazewell County, Virginia diversify its industrial and energy-related resources; and

WHEREAS, Section 15.2-2288.7 of the Code of Virginia (1950), as amended outlines a framework to provide for and regulate the siting, development, construction, installation, operation, and decommissioning of solar energy facilities in Tazewell County, Virginia in a manner that promotes economic development and the safe, effective, and efficient use of such facilities while protecting the health, safety, and welfare of Tazewell County residents and avoiding adverse impacts on Tazewell County resources;

NOW THEREFORE, be it **ORDAINED** that Section 18-86 of the Tazewell County Code of Ordinances is hereby amended and reenacted as follows:

CHAPTER 15 – PLANNING AND DEVELOPMENT

ARTICLE VIII. – SOLAR ENERGY FACILITIES

Sec. 1-1. – Title.

This Ordinance shall be titled the *Tazewell County, Virginia Ordinance Pertaining to Solar Energy Facilities*

Sec. 1-2. – Purpose and Intent.

This Ordinance is being enacted by the Tazewell County Board of Supervisors through the authority granted in Section 15.2-2288.7 of the Code of Virginia (1950), as amended. The purpose of this Ordinance is to provide for and regulate the siting, development, construction, installation, operation, and decommissioning of solar energy facilities in the county in a manner that promotes economic development and the safe, effective, and efficient use of such facilities while protecting the health, safety, and welfare of Tazewell County residents while avoiding adverse impacts on Tazewell County resources. The intent of this Ordinance is to encourage solar energy facilities in a manner that promotes the development of renewable energy sources while limiting impacts on natural resources, including pollinator and wildlife habitats, and existing agricultural, forestal, residential, commercial, industrial, historical, cultural, and recreational uses of property or the future development of such uses of property in Tazewell County. This Ordinance is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances.

This Ordinance does not supersede or nullify any provision of federal, state, or local law that applies to solar energy facilities. This Ordinance shall apply to any and all facilities proposed or otherwise that have not received their Erosion and Sediment and Stormwater permits at the time of adoption of this Ordinance.

Sec. 1-3. – Definitions.

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Applicant shall mean: “the person or entity who submits an application to the County for a permit to site, develop, construct, install, and operate a solar energy facility under this ordinance.”

Decommissioning of Solar Facilities shall mean: “the removal and proper disposal of solar energy equipment, facilities, or devices related to a solar facility, including the restoration and/or reclamation of real property.”

Facility owner(s) shall mean: “the person(s) or entity(s) that owns all or a portion of the solar energy facility, whether or not it owns the site on which the facility is located.”

Integrated PV shall mean “photovoltaics incorporated into building materials, such as shingles.”

Large-scale solar energy facility shall mean: “A renewable energy project that either:

- (1) Generates electricity from sunlight, consisting of one or more PV systems and other appurtenant structures and facilities within the boundaries of the site, or

- (2) Utilizes sunlight as an energy source to heat or cool building(s), 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 term excludes facilities that meet any of the following criteria: (1) having a project area equal to or less than one (1) acre; (2) having a rated capacity equal to or less than two hundred (200) kilowatts (kw); (3) mounted on or over a building, parking lot; or (4) utilizing integrated PV only.”

Operator shall mean: “the person or entity responsible for the overall operation and management of the solar energy facility, if different from the facility owner.”

Permit/Application Packet shall mean: “ten (10) separate bound documents each containing one (1) solar facility application on form provided by the County with all supporting documentation as required in this Ordinance in a ring binder or similar containment with corresponding tabs according to the supporting documentation section of this Ordinance.”

Photovoltaic or PV shall mean: “materials and devices that absorb sunlight and convert it directly into electricity.”

Project area shall mean: “the area within a site used for the construction and operation of the solar energy facility.”

Rated capacity shall mean: “the maximum capacity of a solar energy facility based on the sum total of each photovoltaic system’s nameplate capacity.”

Site shall mean: “the property containing a solar energy facility.”

Site owner(s) shall mean: “the person(s) or entity(s) that owns all or a portion of the site, if different than the facility owner(s).”

Small-scale solar energy facility shall mean: “a solar energy facility that:

- (1) Has a project area of one (1) acre or less;
- (2) Has a rated capacity of two hundred (200 kw) or less;
- (3) Is mounted on or over a building or parking lot; or
- (4) Utilizes integrated PV only.”

Solar energy facilities permit shall mean: “a solar energy facilities permit is a permit required by Tazewell County to construct, install, develop, or operate a solar energy facility producing power that is connected to the grid. This permit must be applied for and issued before any construction can commence.”

Sec. 1-4. – Residential solar installations.

This Ordinance does not apply to residential solar installations so long as the project does not create a life, safety, health, fire issue, or is detrimental to the environment and the power produced is strictly consumed at the residence. These installations may require permitting through the Tazewell County Building Inspector’s Office and must comply with all local building codes. They must also comply with all federal, state, and local laws, codes, regulations, standards, and ordinances. Nothing in this Ordinance shall be interpreted to impose any restrictions on site owner(s) and facility owner(s) of residential solar installations to sell solar energy generated by such solar installation, unless otherwise expressly addressed herein.

Sec. 1-5. – Requirements for small scale solar energy facilities.

This Ordinance does not apply to small scale solar energy facilities so long as the project does not create a life, safety, health, fire issue, or is detrimental to the environment and the power produced is strictly consumed at the site. These installations may require permitting through the Building Inspector's Office and must comply with all local building codes. They must also comply with all federal, state, and local laws, codes, regulations, standards, and ordinances. Nothing in this Ordinance shall be interpreted to impose any restrictions on site owner(s) and facility owner(s) of small-scale solar energy facilities to sell solar energy generated by such solar facilities, unless otherwise expressly addressed herein.

Sec. 1-6. – Applications; permitting.

The requirements set forth in this Ordinance shall govern the siting, development, construction, installation, operation, and decommissioning of solar energy facilities in the County. A permit is required for each large-scale solar energy facility proposed to be constructed, installed, or operated in the County. A completion statement from the County is required prior to the facility being put into operation.

Sec. 1-7. – Applications and procedures for approval and permitting of large scale solar energy facilities.

- (1) Applicant shall complete a permit application packet for New Large Scale Solar Energy Facilities with a Two Thousand Dollar (\$2,000.00) application fee, which shall be in the form of a certified check made to: “Treasurer of Tazewell County, Virginia”. This packet shall be delivered to the Tazewell County Engineer’s Office for review prior to going to the Planning Commission. The Tazewell County Director of Engineering, or his/her designee, shall have sixty (60) days to review the application packet. If there are deficiencies within the application packet, the Tazewell County Director of Engineering, or his/her designee, shall notify applicant of the item(s) that need to be corrected or addressed. Once the corrected packet is received, the Tazewell County Director of Engineering, or his/her designee shall have an additional sixty (60) days to review the application packet. In addition to materials specified in the County Application Form, the information required by Section 1-9 shall be included within the application packet.

- (2) Once the Tazewell County Director of Engineering, or his/her designee, finds that the application packet is complete, he/she shall notify the Chairman of the Planning Commission so that he/she can schedule a Planning Commission meeting and place the proposed solar project on its agenda. A representative of the application may be requested to be present to answer any questions. The Planning Commission shall schedule a meeting not more than sixty (60) days after notice from the Tazewell County Director of Engineering, or his/her designee. The scheduled meeting shall be advertised in a local newspaper of general circulation within Tazewell County for a minimum of once weekly for two (2) successive weeks. The fees for such advertisement shall not be included in the application fee stated in Subsection 1 herein, and shall be paid by Applicant prior to advertisement.
- (3) After the initial Planning Commission meeting, the Chairman of the Planning Commission shall set a date for a public hearing for the proposed solar project not more than sixty (60) days from the initial Planning Commission meeting. The scheduled meeting shall be advertised in a local newspaper of general circulation within Tazewell County for a minimum of once weekly for two (2) successive weeks prior to the meeting. The fees for such advertisement shall not be included in the application fee stated in Subsection 1 herein, and shall be paid by Applicant prior to advertisement.

- (4) At the end of the public hearing in Subsection 3, the Planning Commission shall take a vote on a recommendation to the Board of Supervisors whether to approve or deny the Permit. Additionally, the Planning Commission shall make a finding whether the Project is “substantially in accord” with the Comprehensive Plan pursuant to Section 15.2-2232(H) of the Code of Virginia (1950), as amended. The Chairperson of the Planning Commission shall notify the Tazewell County Administrator of its decision and request that a public hearing be scheduled with the Board of Supervisors within the next sixty (60) days. The scheduled meeting shall be advertised in a local newspaper of general circulation within Tazewell County for a minimum of once weekly for two (2) successive weeks. The fees for such advertisement shall not be included in the application fee stated in Subsection 1 herein, and shall be paid by Applicant prior to advertisement.
- (5) At the end of the public hearing in Subsection 4, the Board of Supervisors shall take a vote as to approve or not to approve the project. If the project is approved, the Chairman of the Board of Supervisors shall sign the required permitting section as found on the permit application, being one (1) of three (3) signatures required before a permit can be issued.
 - (a) The second signature is from the Tazewell County Administrator;
 - (b) The third is from the Tazewell County Director of Engineering.
- (6) Applicant has the right to appeal the decision of the Tazewell Board of Supervisors as found in Section 1-17 of this Ordinance.

Sec. 1-8. – Site plan.

The site plan shall be prepared by a Virginia licensed engineer and/or Virginia licensed surveyor, but shall contain the engineer of record's seal and must include the following information in Subsections (1) through (8) as follows:

- (1) *Property Line Setbacks.* The project area shall be set back a distance of at least fifty (50) feet from all public rights-of-way and main buildings on adjoining parcels, and set back a distance of at least fifty (50) feet from adjacent property lines. Variances may be granted for adjoining parcels that are owned by Applicant, or when Applicant is the lessee, the record owner of the property subject to the Application for the Permit. Upon being determined as necessary by the Planning Commission, increased setbacks of up to one hundred (100) feet each and additional buffering may be included in the conditions for a particular permit. Solar energy facilities also shall meet all setback requirements for primary structures at the site at which the facility is located in addition to the requirements set forth above. Access and interconnection to the electrical grid may be made through setback areas provided that such are generally perpendicular to the property line.
- (2) *Building/Structure Location.* Existing and proposed buildings and structures, including preliminary location(s) of the proposed solar equipment.
- (3) *Access/Entrance Roads.* Existing and proposed access roads, permanent entrances, temporary construction entrances, drives, turnout locations, and parking.

- (4) *Proposed Locations.* Proposed locations, electrical cabling from the solar systems to the substations, panels, ancillary equipment and facilities, buildings, and structures, including those within any applicable setbacks and interconnection to the grid.
- (5) *Fencing.* Fencing as required under this Ordinance and other methods of ensuring public safety shall be shown on the site plan with a detailed illustration. The project area shall be enclosed by security fencing not less than eight (8) feet in height and equipped with an appropriate anti-climbing device such as strands of barbed wire on top of the fence. Variances may be granted for the height and/or location of the fence in consideration of the conditions for a particular permit. Fencing must be installed on the interior of the vegetative buffer required in this Section so that it is screened from the ground level view of adjacent property owners. The fencing shall be maintained at all times while the facility is in operation.

(6) *Vegetative buffer.* A vegetative buffer sufficient to mitigate the visual impact of the facility as approved by the Tazewell County Director of Engineering, or his/her designee, is required. The buffer shall consist of a landscaping strip at least thirty (30) feet wide, shall be located within the setbacks required under Subsection 1, and shall run around the entirety of the area proposed for development. The buffer may consist of existing vegetation and as needed, an installed landscaped strip consisting of multiple rows of staggered trees, and other vegetation. This buffer should include vegetation a minimum of three (3) feet high at planting. This buffer should include vegetation reasonably expected to grow to full maturity within five (5) years. The Planning Commission or Board of Supervisors may require increased setbacks and additional or taller vegetative buffering in situations where the height of structures or topography affects the visual impact of the facility.

Non-invasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs and wildflowers shall be used in the vegetative buffer following Virginia Pollinator-Smart Program best practices. Variances may be granted for alternative designs such as landscaped berms, existing wetlands, or woodlands, if the berms, wetlands, or woodlands are permanently protected and maintained for use as a buffer. Existing trees and vegetation shall be maintained within such buffer areas. During the operation of a Project, any existing trees and vegetation that are dead and/or diseased that compromise the effect of the buffer or the health of surrounding trees and vegetation must be replaced. Existing trees or vegetation may supplement or satisfy landscaping requirements as applicable and approved by the Tazewell County Director of Engineering, or his/her designee. If existing trees and vegetation are disturbed, new plantings shall be provided for the buffer at least three (3) feet tall at planting. The vegetative buffer shall be maintained for the life of the facility.

- (7) *Floodplain:* The site plan shall indicate any flood prone areas as identified using the most current FEMA FIRM maps available. If the property does not contain a flood prone area, it shall be stated as a note on the site plan. All areas that are flood prone and identified under the FEMA FIRM shall be compliant with Chapter 8 of the Tazewell County Code of Ordinances. A solar energy facilities permit shall not be issued until the Tazewell County Director of Engineering, or his/her designee, certifies that Chapter 8 of the Tazewell County Code of Ordinances has been complied with.

- (8) *Lighting Detail:* The site plan may include a dusk-to-dawn lighting detail if proposed. The lighting detail shall give a projected area of illumination.

Sec. 1-9. – Additional required supporting documentation.

- (1) *Documentation of Right to Use Property for the Proposed Facility.*
Documentation shall include proof of control over the proposed site or possession of the right to use the proposed site in the manner requested. Applicant may redact sensitive financial or confidential information.
- (2) *Utility Authorization.* Applicant shall submit documentation, including interconnection requests and status documents, from a publicly regulated utility showing the progress in attaching to such utility's electrical grid. Final documentation on interconnection must be received prior to or concurrent with site plan approval.
- (3) *Electrical Plan.* An electrical diagram shall be provided from a Virginia-licensed engineer, illustrating the electrical connections from the solar panels to the utility grid. These plans shall be signed, stamped, and dated by the engineer of record. Such plans shall be reviewed and approved by the Tazewell County Office of Building Inspections. Such plans must be received prior to or concurrent with site plan approval.

- (4) *Connecting to the Grid & Access to the Site.* Applicant shall submit documentation that no additional easements or rights-of-way from other property owners will be needed in order to connect to the grid or access to the site. If other easements or rights-of-way are required, then Applicant must submit letters of agreement from the affected property owners granting permission for easements or rights-of-way to a state-maintained road or to the grid.
- (5) *Entrance Requirement.* Applicant shall submit a plan demonstrating that all entrances to the Project satisfy all applicable Virginia Department of Transportation (VDOT) requirements. Prior to or concurrent with site plan approval, the Applicant shall provide written confirmation from the Virginia Department of Transportation (VDOT) that all entrances satisfy applicable VDOT requirements.
- (6) *Construction Schedule.* Applicant shall submit a project timeline, which shall include basic time, place, and manner restrictions for the Project. Prior to or concurrent with site plan approval, Applicant shall submit a construction plan, including a proposed construction schedule and hours of operation.
- (7) *Identify Existing Facilities.* The identification and location of any existing large scale solar energy facilities and any known proposed large scale solar energy facilities within a five (5)-mile radius of the proposed site as indicated on an aerial map.

- (8) *Impact on Adjacent Property Values.* A report of impact of similar projects on adjacent property values prepared by a qualified third-party, such as a licensed real estate appraiser.
- (9) *Economic Impact Analysis.* An economic impact analysis prepared by a qualified third-party that reports any expected change in the value of the subject property; expected employment during the construction of the facility; any expected impact on the County's tax revenues; the estimated costs to the County associated with the facility in the form of additional services; and information on any other economic benefits or burdens from the facility that may be requested by Tazewell County Administration.
- (10) *Wildlife Potential Impact Report.* Prior to or concurrent with site plan approval, Applicant shall submit a report on the potential impact on wildlife and wildlife habitats at the site and within a two (2)-mile radius of the proposed facility using information provided by the Virginia Department of Wildlife Resources or a report prepared by a qualified third-party.

- (11) *Glint & Glare Study.* A glint and glare study that demonstrates either that the panels will be sited, designed, and installed to eliminate glint and glare effects on roadway users, nearby residences, commercial areas, and other sensitive viewing locations, *or* that applicant will use all reasonably available mitigation techniques to reduce glint and glare to the lowest achievable levels. The study will assess and quantify potential glint and glare effects and address the potential health, safety, and visual impacts associated with glint and glare. Any such assessment must be conducted by qualified individuals using appropriate and commonly accepted software and procedures.
- (12) *Virginia Cultural Resource Information System Report.* A report by the Virginia Department of Historic Resources Virginia Cultural Resource Information System must be submitted to identify historical, architectural, archeological, or other cultural resources on or near the proposed facility.
- (13) *Notification.* Applicant shall inform adjacent property owners in writing of their proposal to construct a solar facility and shall notify the owners by United States Postal Service certified mail, return receipt requested, that he/she will be proposing this to the Planning Commission and the Board of Supervisors. Such notification shall be issued not fewer than ten (10) days in advance of consideration by the Planning Commission and/or the Board of Supervisors. A copy of the notification along with return receipts of certified mail shall be included in the permit packet. The letter informing adjacent property owners of their proposal shall indicate where additional information can be obtained.

- (14) *Liability insurance.* Applicant shall propose a reasonable amount of liability insurance that Applicant deems adequate to cover operations at the large-scale solar energy facility. Applicant shall provide proof of such reasonable and adequate liability insurance for the large-scale solar energy facility prior to the issuance of a building permit. Obtaining and maintaining the requisite liability insurance will be a mandatory condition of the permit.
- (15) *Visual impacts.* Applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on viewsheds, including from residential areas and areas of scenic, historical, cultural, archaeological, and recreational significance. The facility shall utilize only panels that employ anti-glare technology, anti-reflective coatings, and other available mitigation techniques that meet or exceed industry standards to reduce glint and glare. Applicant shall provide written certification from a qualified expert acceptable to the County that the facility's panels incorporate and utilize anti-glare technology and anti-reflective coatings and reduce glint and glare to levels that meet or exceed industry standards.
- (16) *Height.* Ground-mounted solar energy generation facilities shall not exceed a height of twenty (20) feet, which shall be measured from the highest natural grade below each solar panel. This limit shall not apply to utility poles, lightning arrestors, and the interconnection to the overhead electric utility grid.

- (17) *Density; location.* Large-scale solar energy facilities shall not be located within one (1) mile of an airport unless applicant submits, as part of its application, written certification from the Federal Aviation Administration that the location of the facility poses no hazard for, and will not interfere with, airport operations. In addition, no more than two and one-half percent (2.5%) of the land in a five (5)-mile radius, or one thousand, two hundred fifty-six (1,256) acres of the project area of any existing large-scale solar energy facility shall be approved for use as the project area for a new large-scale solar energy facility.
- (18) *Erosion and sediment control plan.* A preliminary erosion & sediment (E&S) control plan is required must be approved by the Planning Commission prior to the issuance of the construction permit. The final E&S plan may be submitted with the site plan application to the Planning Commission. The Tazewell County Director of Engineering's signature is required on the permit application prior to permitting. E&S plans shall be stamped by a professional engineer or surveyor licensed in the Commonwealth of Virginia.

(19) **Decommissioning plan; security.** Applicant shall provide a detailed decommissioning plan that provides procedures and requirements for removal of all parts of the solar energy generation facility and its various structures at the end of the useful life of the facility or if it is deemed abandoned pursuant to Section 1-14. The plan shall include the anticipated life of the facility; the estimated overall cost of decommissioning the facility in current dollars; the methodology for determining such estimate; the place and manner in which the facility will be disposed; and the manner in which the project will be decommissioned. The decommissioning plan and the estimated decommissioning cost will be updated upon the request of Tazewell County Administration and/or staff, provided the update shall be no less frequently than once every five (5) years.

(a) The decommissioning plans shall include the submittal of an E&S control plan as applicable within six (6) months prior to decommissioning. Plans shall be submitted to the Planning Commission for review, approval, and permit issuance prior to any land-disturbing activities associated with decommissioning. Section 1-14 of this Ordinance shall be applicable to decommissioning E&S control plans, including provisions for performance guarantys.

- (b) The decommissioning plans shall include the submittal of a stormwater management plan as applicable within one (1) year prior to decommissioning. Plans shall be submitted to the Virginia Department of Environmental Quality for review, approval, and permit issuance prior to any activities associated with decommissioning. Section 1-14 of this Ordinance shall be applicable to decommissioning stormwater management plans including provisions for performance guarantys.
- (c) Prior to beginning construction, applicant must provide security in the amount of the estimated cost of the decommissioning. Options for security include a cash escrow, a performance surety bond, a certified check, an irrevocable letter of credit, or other security acceptable to the Tazewell County Director of Engineering in an amount equal to the estimated decommissioning cost developed and updated in accordance with the decommissioning plan acceptable to the County. The security must remain valid until the decommissioning obligations have been met. The security may be adjusted up or down by the County if the estimated cost of decommissioning the facility changes. The security must be renewed or replaced if necessary to account for any changes in the total estimated overall decommissioning cost in accordance with the periodic updated estimates required by the decommissioning plan. Obtaining and maintaining the requisite security will be a mandatory condition of the permit. The security shall be in favor of the County and shall be obtained and delivered to the County before any construction commences.

Stormwater management and E&S control performance guarantys shall be in addition to the decommissioning security herein.

- (d) The decommissioning plan, cost estimates, and all updates of those plans and estimates shall be sealed by a professional engineer.
- (20) All applications must have all applicable building permits prior to commencing construction or decommission.
- (21) Applicant must have all necessary federal and state permits prior to commencing construction or decommission.

Sec. 1-10. – Additional considerations for permitting.

To preserve and protect County viewsheds and resources; to protect the health, safety, and welfare of the community; and to otherwise advance the purpose and intent of this Ordinance, the following criteria may be considered by the Planning Commission and the Board of Supervisors in addressing whether to recommend or grant a permit, and what conditions to impose on any permit, for a large-scale solar energy facility:

- (1) The topography of the site and the surrounding area;
- (2) The proximity of the site to, observation from, and impact on residential areas;
- (3) The proximity of the site to, observation from, and impact on areas of historical, cultural, and archaeological significance;
- (4) The proximity of the site to other large-scale solar energy facilities, other energy generating facilities, and utility transmission lines;
- (5) The proximity of the site to, observation from, and impact on areas of scenic significance, such as scenic byways, vistas, and waterways;

- (6) The proximity of the site to, observation from, and impact on public rights-of-way, including but not limited to highways, secondary roads, streets, and scenic byways;
- (7) The proximity of the site to, observation from, and impact on recreational areas, such as parks, battlefields, trails, lakes, rivers, and creeks;
- (8) The proximity of the site to airports;
- (9) The preservation and protection of wildlife and pollinator habitats and corridors;
- (10) The proximity of the site to any Enterprise Zone identified in the Tazewell County Comprehensive Plan;
- (11) The size of the site;
- (12) The proposed use of available technology, coatings, and other measures for mitigating adverse impacts of the facility;
- (13) The preservation and protection of prime farmland in the county, provided that:
 - (a) “Prime farmland” shall have the meaning assigned to it by the Natural Resource Conservation Service of the United States Department of Agriculture; and
 - (b) The Board of Supervisors may waive any or all of the foregoing.

The enumeration of these criteria shall not prohibit the Planning Commission or Board of Supervisors from considering other factors deemed relevant to a specific permit application based on the details of the application. Nothing herein shall limit in any manner the nature and scope of reasonable conditions that may be recommended by the Planning Commission or imposed by the Board of Supervisors.

- (14) Additional information may be required, as determined by the Tazewell County Director of Engineering, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations, or modeling of the proposed solar energy project from potentially sensitive locations as deemed necessary by Tazewell County Administration to assess the visual impact of the project, aerial image or map of the site, and additional information that may be necessary for a technical review of the proposal. The Planning Commission or Board of Supervisors may require other relevant information deemed to be necessary to evaluate the application.
- (15) *Review fees.* The County may retain qualified third parties to review portions of a permit application that are outside the County's areas of expertise and do not have adequate state and federal review. Any out-of-pocket costs incurred by the County for such review by qualified third parties shall be paid by applicant. The third party reviewers and their estimated costs will be submitted to applicant for approval before the costs are incurred. The County may, in the alternative, accept such review by qualified third parties selected, retained, and paid by applicant.

Sec. 1-11. – Process for permitting.

After (a) receiving project approval from the Tazewell County Director of Engineering, Planning Commission, and Board of Supervisors and (b) receiving signatures from each on the permit application, a solar energy facility permit may be issued through the Department of Building Inspection. An additional permitting fee of Two Thousand Dollars (\$2,000.00) shall be paid at the time the permit is issued, which must be made in the form of certified funds to “Treasurer of Tazewell County, Virginia”.

- (1) Applicant will have one hundred eighty (180) days to commence construction of the Project subsequent to approval of the site plan. Should construction not commence within one hundred eighty (180) days, the permit will become void.
- (2) Applicant will have three (3) years from the commencement of construction to finalize the project or the permit will become void.

Sec. 1-12. – Additional structures.

Applicant shall complete a building permit application for any structure that is regulated under the current Virginia Uniform Statewide Building Code. Fees for these structures will be assessed by using the fee schedule as adopted by the County. After review and approval, a building permit may be processed and issued to applicant.

Sec. 1-13. – Inspections.

- (1) *Notification.* Applicant is responsible for notifying the appropriate state, county, and any other offices that may regulate any part of this development when Applicant’s work has commenced such that appropriate state, county, and any other offices may schedule and conduct inspections.

- (2) *Entry and inspection.* The owner(s) and/or operator(s) will allow designated County officials access to the facility for inspection purposes, provided such inspectors will be subject to the owner(s)' and/or operator(s)' safety requirements and protocols, as with any other employee, while within the facility.
- (3) *Final Inspection.* Prior to the facility starting operations, a final inspection shall be conducted by the engineer of record. The engineer shall submit a letter of completion and compliance to the Tazewell County Director of Engineering being signed, stamped, and dated that the facility complies with his/her designs and is safe for operation. A completion statement from the Tazewell County Director of Engineering is required prior to the facility going online and meets all of the requirements of federal, state, and local laws and regulations as listed below:
- (a) *Compliance with Uniform Statewide Building Code.* All solar energy facilities shall be constructed and operated in compliance with the Uniform Statewide Building Code as applicable.
- (b) *Compliance with National Electric Code.* All solar energy facilities shall be constructed and operated in compliance with the National Electric Code as applicable.
- (c) *Compliance with regulations governing electric energy supply.* Large scale solar energy facilities connected to the utility grid must comply with permitting requirements of the state corporation commission or the department of environmental quality, as applicable.

- (d) *Compliance with Federal Aviation Administration.* All solar energy facilities must meet or exceed the standards and regulations of the Federal Aviation Administration as applicable.
- (e) *Other applicable laws.* All solar energy facilities shall be constructed and operated in compliance with all applicable federal, state, and local laws, rules, regulations, permit requirements, and ordinances as applicable.

Sec. 1-14. – Unsafe or abandoned projects; decommissioning.

- (1) If a solar energy facility has been determined to be unsafe by the Tazewell County Director of Engineering, the facility shall be required to be repaired by the facility owner(s), site owner(s), or operator(s) to meet federal, state, and local safety standards, or to be removed by the owner(s) or operator(s). The owner(s) or operator(s) must complete the repair or removal of the facility, as directed by the Tazewell County Director of Engineering, within the time period allowed for said activities. If directed to do so by the Tazewell County Director of Engineering, the owner(s) or operator(s) will remove the solar energy facility in compliance with decommissioning plan established for such facility.

- (2) If any solar energy generation facility is not operated for a continuous period of twelve (12) months, the County may notify the facility owner(s) by United States Postal Service certified mail, return receipt requested, and provide forty-five (45) days for a response. In its response, the designated point-of-contact for facility owner(s) shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action to be unreasonable, it may notify the facility owner(s), and the facility owner(s), site owner(s), or operator(s) shall remove the solar energy facility in compliance with decommissioning plan established for such facility.
- (3) At such time that a solar energy facility is scheduled to be abandoned, the facility owner(s), site owner(s), or operator(s) shall notify the Tazewell County Administrator and Tazewell County Director of Engineering in writing.
- (4) Within three hundred sixty-five (365) days of the date of abandonment, whether as declared by the County under Subsection (2) or as scheduled by the owner(s) or operator(s) under Subsection (3), the facility owner(s), site owner(s), or operator(s) shall complete the physical removal of the solar energy facility in compliance with decommissioning plan established for such facility. This period may be extended at the request of the owner(s) or operator(s), upon approval of the Board of Supervisors.

- (5) When the facility owner(s), site owner(s), operator(s), or other responsible party(s) decommissions a solar energy facility, he/she shall handle and dispose of the equipment and other facility components in conformance with federal, state, and local laws and regulations. All equipment, both above and below ground, must be removed as part of the decommissioning plan. Internal paths, roads, travel ways, and landscaping may be left at the discretion of the site owner(s).
- (6) If the facility owner(s), site owner(s), or operator(s) fails to timely remove or repair an unsafe or abandoned solar energy facility after written notice, the County may pursue legal action to have the facility removed at the expense of the facility owner(s), site owner(s), or operator(s), each of whom shall be jointly and severally liable for the expense of removing or repairing the facility. The County also may call upon the decommissioning security to remove the facility.

Sec. 1-15. – Change of ownership.

If there is a change of ownership of the facility owner(s) or site owner(s), the Tazewell County Administrator and Tazewell County Director of Engineering must be notified within thirty (30) days of change of ownership, in writing, indicating who the new owner(s) is with his/her contact information and mailing information.

Sec. 1-16. – Revoking permit.

If any part of the project becomes noncompliant with the conditions outlined in this ordinance, Tazewell County Administration will notify the facility owner(s) of the violation in writing, outlining the violation and the date by which the violation needs to be corrected. The notice shall be issued by either delivering a copy to the responsible party by (a) United States Postal Service certified mail, return receipt requested, to the last known address; or (b) delivering the notice in person to the designated point-of-contact for the facility owner(s); The notice of violation shall indicate the right of appeal and the penalty as set forth in this Ordinance. The facility owner(s) will have thirty (30) days to correct the violations before the permit is revoked. Such revocation of the permit shall commence the appeals process for the facility owner(s).

Sec. 1-17. – Appeals process.

- (1) Owner(s) may appeal a decision from the Tazewell County Director of Engineering by appealing to the Tazewell County Administrator with a written appeal. Upon receipt of said written appeal, the County Administrator shall respond in writing by mailing a response to the owner'(s) address as shown on the appeal within thirty (30) business days.
- (2) Decisions from the Tazewell County Administrator may be appealed to the Tazewell County Board of Supervisors at its regularly scheduled meetings by submitting a written request to the Tazewell County Administrator that the appeal be placed on the agenda for said meeting.

- (3) Decisions from the Tazewell County Board of Supervisors may be appealed by filing a written petition with the Tazewell County Circuit Court. This appeal of the Board of Supervisors decision must be filed within thirty (30) days of the vote taken by the Board of Supervisors.

Sec. 1-18. – Violations.

- (1) Violations of any part of this Ordinance that continue for more than thirty (30) days from the issuance of a Notice of Violation delivered to the facility owner(s) by (a) United States Postal Service certified mail, return receipt requested, to the facility owner(s)' last known address; or (b) delivering the notice in person to the designated point-of-contact for the facility owner(s) shall be subject to a Stop Work Order until corrected in addition to any other remedy available under federal, state, or local laws and regulations.
- (2) Any person who violates any provision of this Ordinance shall, upon a finding by the Tazewell County, Virginia General District Court, be assessed a civil penalty. The civil penalty for any one (1) violation of any part of this Ordinance shall be One Thousand Dollars (\$1,000.00). Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of violations hereunder result in a cumulative civil penalty exceeding Ten Thousand Dollars (\$10,000.00).

Sec. 1-19. – Variances.

Facility owner(s) may submit a written request for a variance during the application process to the Tazewell County Planning Commission and to the Tazewell County Board of Supervisors pursuant to this Ordinance prior to commencement of construction. If during construction a variance is desired, a written request may be made to the Tazewell County Director of Engineering and the Tazewell County Administrator. A temporary or permanent variance may be granted if approved by the Tazewell County Director of Engineering and Planning Commission in writing finding that by clear and convincing evidence, strict compliance with the general regulations of this Ordinance would result in unnecessary hardship to the owner. The intent of this Ordinance shall be maintained if a variance is requested. At all times the burden of proof shall remain with the party requesting a variance. Permanent variances pursuant to this Ordinance shall be narrow in scope, strictly construed, and generally disfavored.

Sec. 1-20. – Fees; waived fees.

- (1) All fees obtained under this Ordinance shall be allocated to the Tazewell County Department of Engineering.
- (2) The Planning Commission may grant a waiver not to exceed fifty percent (50%) of the permit fees required by this Ordinance for any entity that is (a) a locality within the Commonwealth of Virginia; (b) an appointed board or authority by a locality within the Commonwealth of Virginia; or (c) an entity declared a nonprofit entity in accordance with Section 501(c) of the Internal Revenue Code, proof of which shall be provided to the Planning Commission upon consideration of a waiver of fees.

It is so **ORDAINED** this 9th day of January, 2024.

RECORDED VOTE:

MEMBERS PRESENT: _____
MEMBERS ABSENT: _____
AYES: _____
NAYS: _____
ABSTENTIONS: _____

ATTEST:

K. Andy Hrovatic
Chairman – Board of Supervisors

C. Eric Young
Tazewell County Administrator