

§ 155.503 SOLAR ENERGY FACILITIES.

(A) *Intent.* To facilitate the siting, construction, installation, and operation of solar energy facilities in York County in a manner that promotes economic development and ensures the protection of the health, safety and general welfare of the citizens while avoiding adverse impacts to adjacent land uses and property owners.

(B) *Purpose.* This section is adopted for the following purposes:

- (1) To promote alternative and sustainable energy sources in York County;
- (2) To preserve the dignity and aesthetic quality of the natural and built environment;
- (3) To conserve and ensure access to the county's natural and scenic resources; and
- (4) To preserve the physical integrity of land in close proximity to residential areas.

(C) *Definitions.*

(1) **ABANDONMENT.** To give up, discontinue, withdraw from. Any solar energy facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.

(2) **DECOMMISSIONING PLAN.** A document that details the planned shut down or removal of a solar energy facility from operation or usage.

(3) **SOLAR ENERGY FACILITY.** An energy generating facility or area principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems. This definition shall exclude those facilities that are installed on the roof of a building, where the primary purpose of such building is not for the commercial production of solar energy.

(D) *Setbacks.* All buildings, structures, equipment, and parking areas related to the solar energy facility shall be setback at least:

- (1) 125 feet from all property lines;
- (2) 125 feet from all public rights-of-way; and
- (3) 500 feet from all public rights-of-way along a designated South Carolina Scenic Byway.

(E) *Height.* The maximum height of all equipment shall not exceed 20 feet above the average site grade.

(F) *Bufferyards and screening.*

(1) *Visual buffer plan.* The applicant must submit a visual buffer plan with the application for special exception. The site plan must show all property lines as well as water features and contour lines. The plan must also show the placement, species, and initial and mature heights of proposed plantings within the vegetative buffer, as well as the location and details of proposed fences and/or walls on the property. Applicants who seek alternative compliance by special exception, as described below, must also submit a tree survey, berm contour lines, or graphic evidence of topographic features that reduce visual impacts of a solar energy facility, as applicable.

(2) Solar energy facilities must be screened from adjacent properties and rights-of-way with a vegetative buffer and opaque fence or wall per the following specifications:

(a) A vegetative buffer with a minimum depth of 75 feet shall be installed in compliance with the Type D bufferyard standards described in § 155.412(B) of this chapter;

(b) The vegetative buffer shall also include a row of evergreens which are a minimum of six feet in height at the time of planting and are spaced not more than eight feet apart which at maturity will form an intermittent visual barrier to a height of 15 feet. Evergreens shall be selected to reach a minimum height of ten feet within three years from planting. Evergreens shall be a species included in Appendix C-I: Approved Species List of York County Tree Planting Requirements;

(c) A separate row of shrubs that are dense, low-lying, continuous, and planted so as to visually fill in the low-lying gaps between the trunks of the evergreens. Shrubs shall be a species native to the Carolina Piedmont; and

(d) A minimum six foot tall fence or wall that is constructed in a durable fashion of brick, vinyl, stone, wood posts and planks or any combination of these materials. The fence or wall shall have a completely opaque surface, and the finished side of the fence shall face towards the right-of-way and adjacent properties. A chain link fence is permitted only to secure equipment internal to the solar energy facility and must be screened from rights-of-way and adjacent properties. The Zoning Administrator shall determine the most effective placement of the opaque fence in relation to the vegetative buffer to meet screening requirements.

(e) The Board of Zoning Appeals may modify the height specifications described above where topography prevents said requirements from meeting the intent of this section.

(3) *Alternative compliance by special exception.* The Zoning Board of Appeals may modify the buffer and screening requirements where alternative compliance is proposed in the visual buffer plan as follows:

- (a) There are existing vegetated areas located on the same property as the solar energy facility that are within or

include the required bufferyard, and are of sufficient height, length, and depth, and contain adequate and sufficient healthy vegetation to meet the intent of this section;

(b) There are topographical features located on the subject and/or adjacent properties that reduce the visual impact of the solar energy facility on adjacent properties and rights-of-way so that required buffers and screening is not necessary to meet the intent of this section;

(c) There are water features located on the subject property that would be adversely impacted by buffer and screening requirements; or

(d) The applicant proposes to construct a berm in lieu of the required fence or wall, provided that the height and location of the berm meet the intent of this section.

(4) All other applicable requirements for bufferyards and fencing in this chapter that are not referenced by this section must be adhered to.

(G) *Glare standards.*

(1) The design and construction of solar energy facilities shall not produce light emissions, either direct or indirect (reflective), that would interfere with pilot vision and/or traffic control operations of airports located within five nautical miles of the proposed solar energy facility.

(2) Solar energy facilities equipment is to be designed and located in a way to avoid directing glare or reflection onto adjacent properties and roadways, and shall not interfere with vehicle traffic or create a safety hazard.

(H) *Environmental standards.*

(1) Improved areas shall not be located in wetlands, nor within a Special Flood Hazard Area (SFHA) as shown on the effective flood insurance rate map.

(2) Environmentally-friendly vegetative management practices must be employed; use of herbicides should be avoided; provided however, spot herbicide treatment may occasionally be applied to deter growth of new trees on the site. Soil sterilants shall not be used on the site.

(I) *Additional requirements.*

(1) An attached sign meeting the dimensional standards of this chapter shall be posted and maintained at the entrance(s), which lists the name and phone number of the operator. Freestanding signs are prohibited.

(2) On-site electrical interconnections and power lines shall be installed underground to the extent feasible. Existing above ground utility lines shall be allowed to remain in their current location.

(3) All access roads and storage areas shall be established on a minimum 20 foot wide easement to a public right-of-way.

(4) Any other relevant studies, reports, certificates and approval as may be reasonably required by York County.

(J) *Aviation notification.*

(1) For consideration of potential impacts to civilian flight paths for airport operations located within five nautical miles from an airport listed in the National Plan of Integrated Airport Systems, notification of intent to construct a solar energy facility shall be sent to the airport manager or designated official and the appropriate Federal Aviation Administration's (FAA) Airport District Office (ADO). Notification shall include location of solar energy facility (i.e. map, latitude and longitude coordinates, address or parcel ID), technology (i.e. roof-mounted solar photovoltaic, ground-mounted fixed PV, tracked PV, solar thermal etc.) and the area of system (e.g. ten acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.

(2) In addition to providing notification of intent to construct a solar energy facility, the proponent of the solar energy facility shall use the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), per its user's manual, to evaluate the solar glare aviation hazard on airports meeting the criteria described above. The full report for each flight path and observation point, as well as the contact information for the Zoning Administrator, shall be sent to the authorities described above at least 30 days prior to site plan approval. Proof of delivery of notification and date of delivery shall be submitted with permit application.

(3) Any applicable solar energy facility design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal must be rerun in the SGHAT tool and the new full report must be sent without undue delay to the contact specified in division (J)(1) above for accurate records of the as-built system.

(K) *Decommissioning.* The performance guarantee and decommissioning plan requirements below insure costs associated with the restoration or stabilization of a site for future use after a solar energy facility use has been discontinued.

(1) *Performance guarantee.*

(a) Prior to issuance of a building permit, the applicant must provide the county with a performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the county in the amount of 125% of the estimated decommission cost minus the salvageable value, or \$50,000, whichever is greater. Estimates shall

be determined by an engineer licensed to practice in South Carolina.

(b) All performance bonds must renew automatically; provide a minimum 90-day notice to the county prior to cancellation; be approved by the Planning Director or his/her designee; and be provided by a company on the U.S. Department of Treasury's Listing of Certified Companies.

(c) The county will request a new engineer's estimate of probable cost of decommissioning every five years from the initial submission. The bond, letter of credit, or other financial security acceptable to the county shall be adjusted upward or downward, as necessary.

(2) *Decommissioning plan.* A decommissioning plan addressing the following items and signed by both the party responsible for decommissioning and the landowner (if different) shall be recorded in the York County Register of Deeds prior to the issuance of a building permit. The decommissioning plan shall be reviewed by staff for compliance with the requirements below prior to any party signatures and recordation of the document in the Register of Deeds.

(a) List the type of panels, storage facilities, and materials to be installed at the site.

(b) Restoration plan to properly restore or stabilize the property for future use, as determined by the Zoning Administrator.

(c) Removal of solar panels, buildings, cabling, electrical components, roads, and any other associated facilities.

(d) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.).

(e) The timeframe for completion of decommissioning activities. The maximum time permitted for decommissioning and restoring the site shall be six months.

(f) Description of any agreement (e.g. lease) with landowner regarding decommissioning and acknowledgment by the land owner, that he or she shall be held ultimately responsible for decommissioning.

(g) The identification of the party currently responsible for decommissioning.

(h) Estimated cost of site restoration prepared by an engineer licensed to practice in South Carolina.

(i) Plans for periodically updating the decommissioning plan.

(L) *Abandonment.*

(1) Should a solar energy facility cease to produce energy on a continuous basis for 12 months, it will be considered abandoned unless the current responsible party (or parties) with ownership interest in the solar energy facility provides substantial evidence (updated every three months after 12 months of no energy production) to the Planning Director or his/her designee of the intent to maintain and reinstate the operation of that facility.

(2) Upon determination of abandonment, the Planning Director or his/her designee shall notify the party (or parties) responsible that they must remove the solar energy facility and properly restore or stabilize the property for future use, as determined by the Zoning Administrator, within six months of the notice.

(3) If the responsible party (or parties) fails to comply after six months from the date of notice has passed, the county may pursue all actions available at law or in equity, including, but not limited to; breach of contract, specific performance, mandatory injunctions, fines, abatement, nuisance, liens, assessments and judicial sale of the property.

(M) *Enforcement.* Any person found to be in violation of any provision of this section shall be subject to the penalties described in § 155.999.

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