

AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE, ENTITLED "ZONING," ARTICLE 3, SECTION 3-403; ARTICLE 6, SECTIONS 6-2101 AND 6-2102; ARTICLE 7, SECTIONS 7-601 AND 7-602; ARTICLE 8, SECTIONS 8-601 AND 8-602; ARTICLE 9, SECTIONS 9-501 AND 9-502; ARTICLE 10, SECTIONS 10-601 AND 10-602; AND ARTICLE 13, TO ADD SECTIONS 13-2700, 13-2701, AND 13-2702 TO ADOPT DEFINITIONS FOR SOLAR ENERGY FACILITIES AND AMEND TABLES OF PERMITTED AND CONDITIONAL USES TO PERMIT OR CONDITIONALLY ALLOW SOLAR ENERGY FACILITIES IN SPECIFIED ZONING DISTRICTS PROVIDED CERTAIN REQUIREMENTS ARE MET.

WHEREAS, the Council of the City of Chesapeake finds the public necessity, convenience, general welfare and good zoning practice so require,

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix A of the City Code, entitled "Zoning," Article 3, entitled "Interpretation and Definitions," Section 3-403; Article 6, entitled "Residential Districts," Sections 6-2101 and 6-2102; Article 7, entitled "Business Districts," Sections 7-601 and 7-602; Article 8, entitled "Industrial Districts," Sections 8-601 and 8-602; Article 9, entitled "Office, Institutional and Assembly Districts," Sections 9-501 and 9-502; Article 10, entitled "Conservation and Agricultural Districts," Sections 10-601 and 10-602 be amended and reordained, and Article 13, entitled "Supplemental Regulations," Sections 13-2700, 13-2701, and 13-2702 be enacted as follows:

ARTICLE 3 – INTERPRETATION AND DEFINITIONS

Section 3-403. - Definitions.

The following definitions shall be used in the interpretation and administration of this ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

Accessory solar energy system. An electric generating structure that operates as an accessory to the authorized principal use of the property and is used to produce electric power for direct or net metering consumption by onsite users through the conversion of sunlight into electricity. For purposes of this ordinance, "net metering consumption" shall occur when the

electric generating structure transfers surplus electricity generated by the accessory solar energy system to the public utility power grid in exchange for credits that may be drawn upon during times when electricity usage exceeds the electricity generation.

Decommissioning. The removal and proper disposal of solar energy equipment, facilities, or devices on real property, including restoration of the real property upon which such solar equipment, facilities, or devices are located. Restoration of the real property shall include soil stabilization, and revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

Utility solar energy facility. An electric generating system which operates as a principal use of the property and is used to produce power for consumption by offsite users, consisting of one or more photovoltaic panels, support structures and associated control, conversion and transmission hardware.

ARTICLE 6 – RESIDENTIAL DISTRICTS

Section 6-2101. - Description.

C. *Special conditions pertaining to specific uses.* In the table below, the numbers shown in the column entitled "condition" shall have the following meanings:

35. See Section 13-2700 et seq. of this ordinance for supplemental regulations.

Section 6-2102. - Table of permitted and conditional uses in residential districts.

SECTION 6-2102. TABLE OF PERMITTED AND CONDITIONAL USES
IN RESIDENTIAL DISTRICTS

SIC	Use	Rural			Suburban			Urban			Condition*	Parking**
		1F	2F	MF	1F	2F	MF	1F	2F	MF		
	<i>Transportation, Communication and Utilities</i>											
4911	Electric Services, Aboveground	C	C	C	C	C	C	C	C	C		26
	<u>Accessory Solar Energy System</u>	<u>P</u>	<u>35</u>									

ARTICLE 7 – BUSINESS DISTRICTS

Section 7-601. - Description.

C. *Special conditions pertaining to specific uses.* The following conditions shall apply to specific uses, as indicated in the "condition" column in the uses schedule:

41. See Section 13-2700 et seq. of this ordinance for supplemental regulations.

Section 7-602. - Table of permitted and conditional uses in business districts.

SECTION 7-602. TABLE OF PERMITTED AND CONDITIONAL USES IN BUSINESS DISTRICTS

SIC	Use	Rural		Suburban		Urban			MXD/U	Condition*	Parking**
		B 1	B 2	B 1	B 2	B 1	B 2	B 5			
<i>Transportation, Communications and Utilities</i>											
491	Electric Services							C			26
4911	<u>Accessory Solar Energy System</u>	P	P	P	P	P	P	P		41	
4911	<u>Utility Solar Energy Facility</u>		C		C		C			41	

ARTICLE 8 – INDUSTRIAL DISTRICTS

Section 8-601. - Description.

C. *Special conditions pertaining to specific uses.* The following conditions shall apply to specific uses, as indicated in the "condition" column in the uses schedule:

36. See Section 13-2700 et seq. of this ordinance for supplemental regulations.

Section 8-602. - Table of permitted and conditional uses in industrial districts.

SECTION 8-602. TABLE OF PERMITTED AND CONDITIONAL USES
IN INDUSTRIAL DISTRICTS

SIC	Use	Rural			Suburban			Urban			Condition*	Parking**
		M1	M2	M3	M1	M2	M3	M1	M2	M3		
	<i>Transportation, Communication and Utilities</i>											
491	Electric Services	P	P	P	P	P	P	P	P	P		26
<u>491</u>	<u>Accessory Solar Energy System</u>	<u>P</u>	<u>36</u>									
<u>491</u>	<u>Utility Solar Energy Facility</u>	<u>C</u>	<u>36</u>									

ARTICLE 9 – OFFICE, INSTITUTIONAL AND ASSEMBLY DISTRICTS

Section 9-501. - Description.

C. *Special conditions pertaining to specific uses.* The following conditions shall apply to specific uses, as indicated in the "condition" column in the uses schedule:

25. See Section 13-2700 et seq. of this ordinance for supplemental regulations.

Section 9-502. - Table of permitted and conditional uses in the office and institutional district and the assembly center district.

SECTION 9-502. TABLE OF PERMITTED AND CONDITIONAL USES IN OFFICE AND INSTITUTIONAL AND ASSEMBLY DISTRICTS

SIC	Use	Rural		Suburban		Urban		Condition*	Parking**
		AC	O-I	AC	O-I	AC	O-I		
<i>Transportation, Communication and Utilities</i>									
4911	Electric Transformer Station	C	C	C	C	C	C		26
	<u>Accessory Solar Energy System</u>	P	P	P	P	P	P	<u>25</u>	
	<u>Utility Solar Energy Facility</u>		<u>C</u>		<u>C</u>		<u>C</u>	<u>25</u>	

ARTICLE 10 – CONSERVATION AND AGRICULTURAL DISTRICTS

Section 10-601. - Description.

C. *Special conditions pertaining to specific uses.* In the table below, the numbers shown in the column entitled "condition" shall have the following meaning:

35. See Section 13-2700 et seq. of this ordinance for supplemental regulations.

Section 10-602. - Table of permitted and conditional uses in conservation and agricultural districts.

SECTION 10-602. TABLE OF PERMITTED AND CONDITIONAL USES IN
AGRICULTURAL AND CONSERVATION DISTRICTS

SIC	Use	Rural				Suburban				Urban				Condition*	Parking**
		C1	C2	C3	A1	C1	C2	C3	A1	C1	C2	C3	A1		
	<i>Transportation, Communication and Utilities</i>														
491	Electric Services	C	C	C	C	C	C	C	C	C	C	C	C		26
	<u>Accessory Solar Energy System</u>		P	P	P		P	P	P		P	P	P	<u>35</u>	
	<u>Utility Solar Energy Facility</u>				<u>C</u>				<u>C</u>				<u>C</u>	<u>35</u>	

ARTICLE 13 – SUPPLEMENTAL REGULATIONS

Section 13-2700. – Solar Energy Systems and Facilities.

A. Intent. The purpose of this ordinance is to provide a regulatory framework for the construction of solar energy systems and facilities, subject to reasonable criteria regarding the siting of such systems and facilities, which will preserve the public health, safety and welfare and maintain the character of the City, in a manner consistent with the goals of the Commonwealth Energy Policy put forth in Title 67 of the Code of Virginia.

B. Design and Installation standards applicable to all solar energy systems and facilities. The following regulations establish minimum requirements and standards for the design and installation of solar energy systems and facilities:

1. All solar energy systems and facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), and the American Society for Testing and Materials (ASTM).
2. All solar energy systems and facilities shall comply with all applicable federal, state and City Code requirements, including but not limited to the Virginia Uniform Statewide Building Code and Virginia Statewide Fire Prevention Code.
3. All onsite transmission or power lines shall be placed underground.
4. All solar energy systems and facilities shall be designed and operated to prevent the direction of concentrated solar radiation or glare onto neighboring property, public roads or other areas accessible to the public.

Section 13-2701. – Accessory Solar Energy Systems.

A. Permit from the Zoning Administrator required.

1. No solar energy system may be installed as an accessory to a principal use until a zoning permit is issued for such use by the Zoning Administrator. To apply for a permit, the owner or authorized applicant must submit an application and a site plan to the Zoning Administrator. The site plan must identify the size and location of any proposed accessory solar energy system structures, which must comply with all applicable zoning and building code regulations. In the event of a conflict between this ordinance and any other applicable ordinance, the more restrictive ordinance shall govern. The Zoning Administrator shall review the application and site plan and include any necessary City departments in the review of the same. The application and site plan shall also conform with the following standards:

- a. Roof-mounted: Solar energy systems, including roof tiles, may be installed on the roof of a single-, two-, or multi-family dwelling or on the roof of an accessory building or structure on a single- or two-family dwelling unit lot, provided that the height of the solar energy system does not extend more than five (5) feet above the highest point of the roof of the building or structure on which it is installed or exceed by twenty-five percent (25%) the height of the dwelling, whichever is less.
- b. Ground-mounted: Solar energy systems installed in the ground must meet the following requirements:

1. Height of the solar energy system, together with its support structures and associated equipment, shall not exceed twelve (12) feet; and
2. The footprint of the solar energy system shall not exceed twenty-five percent (25%) of the lot area of the property on which it is placed; and
3. The solar energy system shall not be placed in the established front yard and shall be subject to the same side and rear yard setbacks as other accessory structures.

B. Decommissioning. The owner shall remove all solar energy systems, solar panels and support structures, buildings, cabling, electrical components, roads and any other associated equipment within ninety (90) days of cessation or abandonment of the use.

Section 13-2702 – Utility Solar Energy Facilities.

A. Conditional Use Permit Required.

- a. Utility solar energy facilities shall be conditionally permitted in the B-2 (general business), M-1 (light industrial), M-2 (general industrial), M-3 (waterfront industrial), O & I (office and institutional) and A-1 (agricultural) districts, upon the granting of a conditional use permit by City Council in accordance with the requirements of this zoning ordinance. The Council may impose conditions on a use permit as the Council deems appropriate to mitigate land use impacts.

B. Decommissioning.

- a. Prior to approval of the conditional use permit, the applicant/owner shall enter into a written agreement with the City to decommission the solar energy

equipment, facilities and devices. This written agreement shall conform with Virginia Code Section 15.2-2241.2, as amended, and shall include the following terms and conditions:

- i. Upon the cessation or abandonment of the use, the applicant/owner shall remove and properly dispose of all solar energy equipment, facilities and devices and restore the property to its pre-use grade by stabilizing the soil and revegetating the ground cover within the timeframe mandated by the written agreement; and
- ii. The applicant/owner shall provide financial assurance based upon the estimate of a professional engineer licensed in the Commonwealth who is engaged by the applicant and approved by the City, with experience in preparing decommissioning estimates. The financial assurance shall be in a form approved by the City Attorney or designee. The decommissioning estimate shall be sufficient to secure the proper and lawful decommissioning of the site, include a reasonable allowance for estimated administrative costs related to a default and an annual inflation factor; and
- iii. In the event the holder of a conditional use permit for a utility solar energy facility breaches the obligations put forth in the written agreement, the City may utilize the financial assurance, in whole or in part, to enter the property and engage in decommissioning the site without the owner's consent. Any financial assurance not utilized by the City may be released only upon full compliance with the following: (1) cessation of utility solar energy facility; (2) complete

decommissioning of the site; (3) final inspection and approval of the site by the Director of Development and Permits or designee; (4) certification that all inspections and approvals required under state and federal law have been obtained; and (5) submission of a written document indemnifying the City against any and all costs, fines or damages resulting from any environmental pollution which arose, or may arise, out of the design, construction, operation or abandonment of the site as a utility solar energy facility or which arose, or may arise, out of acts, or failure to act, in the decommissioning of the site.

ADOPTED by the Council of the City of Chesapeake, Virginia this 16th day of July, 2019.

APPROVED:



Mayor

ATTEST:



Clerk of the Council

APPROVED AS TO FORM:



Deputy City Attorney