

**AGENDA  
JEFFERSON COUNTY COMMISSION  
PUBLIC HEARING  
MONDAY, APRIL 12, 2021  
6:00 P.M.**

Please join meeting from your computer, tablet or smartphone.  
<https://global.gotomeeting.com/join/576665037>

You can also dial in using your phone.  
United States: [+1 \(872\) 240-3212](tel:+18722403212)

Access Code: 576-665-037

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**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING**

1.     6:00 p.m.     - Special called meeting for Public Hearing to receive input on the Planning Commission's recommended text amendment to the Zoning and Land Development Ordinance to allow Solar Energy Facilities to process in Jefferson County (PC File #ZTA19-03). Meeting includes consideration of the Text Amendment and possible action - Discussion/Action
  
2.     **ADJOURN**

*At all times the County Commission reserves the right to rearrange agenda times because of time constraints and to accommodate the Commission schedule or the public.*



**Jessica Carroll**

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**From:** Jessica Carroll  
**Sent:** Friday, March 19, 2021 3:52 PM  
**To:** 'Legals'  
**Cc:** Sandra McDonald; Alexandra Haid (abeaulieu@jeffersoncountywv.org)  
**Subject:** Notice of Public Hearing - Draft Text Amendment to the Zoning Ordinance re: Solar Energy Facilities

**Please run March 24 and March 31, thank you!**

**NOTICE OF PUBLIC HEARING  
Monday, April 12, 2021 at 6:00 PM**

The Jefferson County Commission has scheduled a Public Hearing on the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA19-03, to allow Solar Energy Facilities to process as a Principal Permitted Use in the following Zoning Districts: General Commercial, Highway Commercial, Light Industrial, Major Industrial, Rural, Residential Growth, Residential-Light Industrial-Commercial, and Industrial Commercial. The text amendment, in accordance with WV Code Chapter 8A and Article 12 of the Zoning Ordinance, proposes revisions to Article 2, Definitions; Article 8, Supplemental Use Regulations (creation of Section 8.20 Solar Energy Facilities); and Appendix C, Principal Permitted and Conditional Uses Table.

The County Commission may take action on the proposed amendment during the meeting, after public comments have been received. Oral or written comments can be provided during or prior to the hearing, **6:00 PM Monday, April 12, 2021**, which will be held virtually via GoTo Meeting. You may also submit written comments prior to the hearing to [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org) or to PO Box 250, Charles Town, WV 25414.

A copy of the proposed text amendment is available at the Office of Planning & Zoning and on the County's website at: [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). If you have any questions, please call the Office of Planning & Zoning at 304-728-3228.

By Order of the Jefferson County Commission  
Josh Compton, President



**AGENDA REQUEST FORM**  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)



**Name:** Alexandra Beaulieu, Zoning Administrator

**Department or Organization:** Department of Engineering, Planning and Zoning

**Estimation of amount of time needed for appointment:**

**Date Requested – 1<sup>st</sup> Choice:** April 12, 2021 @ 6:00 PM

*If a specific date is needed, please provide reason for specific date:*

**Countain Commission scheduled the public hearing for this date/time.**

**Date Requested – 2<sup>nd</sup> Choice:**

**Subject (Wording to be placed on agenda):**

Special called meeting for Public Hearing to receive input on the Planning Commission's recommended text amendment to the Zoning and Land Development Ordinance to allow Solar Energy Facilities to process in Jefferson County (PC File #ZTA19-03).

Meeting includes consideration of the Text Amendment and Possible Action.

**Please provide the County Commission with a description of your request or presentation, including any background information:**

The draft amendment proposes to allow Solar Energy Facilities to process as a Principal Permitted Use (by right) in the following zoning districts: General Commercial, Highway Commercial, Light Industrial, Major Industrial, Rural, Residential Growth, Residential-Light Industrial-Commercial, and Industrial Commercial. The text amendment proposes revisions to Article 2 Definitions; Article 8 Supplemental Use Regulations (creation of Section 8.20 Solar Energy Facilities); and Appendix C Principal Permitted and Conditional Uses Table.

Please see Staff Memo for background information.

**Is this a funding request?** Y/N **If so, how much?**      **§ Provide exact financial impact/request:**

**Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):**

**Attach supporting documents for request, or request may be denied.**

- Staff Memo - Background
- Planning Commission's Signed Findings of Fact and Conclusions of Law (March 9, 2021)
- Proposed Text Amendment to various sections of the Zoning Ordinance (ZTA19-03), as recommended to the County Commission by the Planning Commission on March 9, 2021.

**If not attached, explain:**

**Is equipment needed?**      Projector    Y/N      Internet/Wi Fi    Y/N      Telephone for conference call    Y/N

**Contact information:** Email address: zoning@jeffersoncountywv.org      Phone Number: 304-728-3228

FOR COMMISSION STAFF USE ONLY – FINANCIAL IMPACT/RECOMMENDATION





## JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning  
116 East Washington Street, 2<sup>nd</sup> Floor  
P.O. Box 716  
Charles Town, WV25414

[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

Phone: (304) 728-3228

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### MEMO

**TO: County Commission**

**FROM: Alexandra Beaulieu, Zoning Administrator**

**DATE: March 19, 2021**

**RE: ZTA19-03, Solar Energy Facilities – April 12, 2021 County Commission Public Hearing**

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- 06-23-20: Planning Commission revised draft text amendment based on public input and voted to send the revised text amendment to the County Commission (CC) with a recommendation that the proposed text amendment was consistent with the Comprehensive Plan.
- 10-01-20: Following a series of public workshops and a Public Hearing, CC voted to approve the PC's recommended draft text amendment ZTA19-03, with one revision to increase the required setback for solar panels from 100' to 200'.
- 12-10-20: CC voted to vacate their 10-01-20 approval of zoning text amendment file #ZTA19-03. The motion included direction to return the text amendment to the PC for further review and consideration.
- 02-09-21: PC held Public Hearing to received public input on ZTA19-03. The PC closed the hearing and called a special meeting for 02-23-21 to allow additional time to review the written comments submitted.
- 02-23-21: PC determined that allowing solar facilities as a principal permitted use was consistent with the Comprehensive Plan and noted that if there were any conflicts with the Plan, there had been changes of a social nature, which support alternative energy. The PC directed Legal Counsel to draft Findings of Fact and Conclusions of Law for their review during the March meeting.
- 03-09-21: PC voted to revise the text to exclude underground utilities from the 25' setback requirement for Accessory Components and made a formal recommendation to the County Commission, which included Findings of Fact and Conclusions of Law.
- 03-18-21: CC received the Planning Commission's recommendation draft ZTA19-03 and scheduled a Public Hearing for April 12, 2021 @ 6:00 PM.

#### **Attachments:**

- Planning Commission's Signed Findings of Fact and Conclusions of Law (signed March 9, 2021).
- ZTA19-03, Solar Energy Facilities DRAFT Text Amendment as recommended by the Planning Commission on March 9, 2021



**JEFFERSON COUNTY PLANNING COMMISSION**

**SOLAR TEXT AMENDMENT**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**File No. ZTA 19-03**

On June 23, 2020, the Jefferson County Planning Commission (“Planning Commission”), pursuant to proper notice and a hearing, approved the Solar Text Amendment (“STA”), File No. ZTA 19-03, to amend the Jefferson County Zoning Ordinance (“Zoning Ordinance”) to allow solar facilities to be constructed as a Principal Permitted Use (“PPU”) in eight (8) zoning districts of the county, including the Rural District. On October 1, 2020, pursuant to proper notice and a hearing, the Jefferson County Commission (“County Commission”) approved the STA with an amendment which increased the setback from one hundred (100) feet to two hundred (200) feet. Opponents of the STA, as amended, subsequently filed suit seeking a preliminary injunction against enforcement of the STA, as amended, among other things. On December 10, 2020, the County Commission reached a settlement of the lawsuit vacating the STA, as amended, and returning the STA to the Planning Commission “for further review, consideration and public hearing...”

Pursuant to proper notice, meetings, and/or hearings held on February 9, 2021, February 23, 2021, and on March 9, 2021, the Planning Commission, upon further review and consideration of the Solar Text Amendment, finds and concludes as follows:

**FINDINGS OF FACT**

1. Under W.Va. Code §8A-7-8, the Jefferson County Zoning Ordinance, and related legal authority, the County Commission may amend the Zoning Ordinance as follows:

(a) Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

W. Va. Code Ann. § 8A-7-8

2. The Comprehensive Plan encourages the development of alternative energy sources, such as solar power generation. (Comp. Plan, pp. 89-90 and 93).

3. Solar facilities help to preserve the environment in that they generate low or no emissions. Moreover, the STA requires a “decommissioning plan” to restore land to its pre-solar condition after power production ceases and a bond to cover the costs of the decommissioning.

4. The Comprehensive Plan recognizes the need for flexibility in the use of agricultural properties in order to help struggling farm operators to continue to have viable business opportunities. (Comp. Plan, p. 38). Moreover, the Comprehensive Plan rejects the preservation of farms without farmers. “There must be a viable rural economy to maintain the rural landscape.” (Comp. Plan, p. 72).

5. Solar facilities, as a minimal and reversible impact on the environment, are more likely to retain the rural and farming character of Jefferson County than other forms of development.

6. The STA promotes the economic well-being of the county by creating jobs, increasing tax revenues and generating business opportunities for farmers and other landowners, while having a very low impact upon the environment.

7. The STA minimizes the aesthetic impacts of solar facilities by requiring screening, buffering and setbacks. Moreover, the economics of solar facilities require them to be located next to existing electrical substations and transmission lines which are already exempt from zoning restrictions as “essential utilities and equipment” under state law and county ordinance. W. Va. Code §§ 8A-1-2(f) (defining essential utilities) and 8A-7-3(e) (providing that essential utilities are a permitted use in any zoning district; and Zoning Ordinance §4.7 (exempting essential utility equipment from the Zoning Ordinance). By authorizing solar development near existing infrastructure which is already exempt from zoning restrictions, the STA further minimizes the aesthetic impacts of solar facilities.

8. The Comprehensive plan does support alternate and renewable energy sources. (See, for example, Section 2D, Infrastructure, p. 89-90, and Recommendation 8, p.93). However, an additional circumstance which was not anticipated or fully considered when drafting the Future Land Use Guide became apparent during the meetings before the Jefferson County Commission involving Rockwool. These meetings revealed the importance that many of the citizens of Jefferson County attach to favoring low impact commercial and industrial development which has low or no emissions. Solar facilities satisfy these concerns because they have low or no emissions, and otherwise have a minimal and reversible impact upon the environment. Consider the following examples which illustrate the importance of alternate energy to the citizens of Jefferson County:

- a) 8/2/2018 JCC meeting, part 1 at 01:18:40  
“I really feel like at this tipping point, we have the opportunity to bring in green energy. So what I want to ask you guys is instead of letting this company come in and destroy our community why don’t we look for better companies who are about saving our community? .... Why are we not progressing, we are regressing.”
- b) 8/2/2018 JCC meeting, part 2 at 09:01  
“There are renewable energy opportunities. Why not a solar farm on those 130 acres planned for Rockwool?”

- c) 8/2/2018 JCC meeting, part 2 at 14:49  
“Why aren’t we bringing in clean jobs? Why aren’t we supporting green industries like renewable energy? The 21<sup>st</sup> century has been here for 18 years, when are we going to start living in it?”
- d) 8/2/2018 JCC meeting, part 2 at 18:20  
“If you do want to subsidize something, subsidize smart energy and green technologies.”

### CONCLUSIONS OF LAW

For the foregoing reasons, the Planning Commission finds and concludes that the Solar Text Amendment, File No. ZTA 19-03, is consistent with the Comprehensive Plan. To the extent that it may be inconsistent (if at all) the Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area, which changes include the demand of citizens for green energy as evidenced during the meetings before the Jefferson County Commission concerning the Rockwool project.

Moreover, the Planning Commission advises the County Commission of the Findings and Conclusions herein and further concludes that it is appropriate to forward the STA to the County Commission for further consideration, modification and/or approval in accordance with State Law and the Zoning Ordinance.

By majority vote at a duly called meeting of the Jefferson County Planning Commission.

Dated this 9 day of March, 2021.

JEFFERSON COUNTY PLANNING COMMISSION



Its: President



pressing, and tailoring; massage therapy provided by licensed massage practitioner; photographic studios; psychic readers; real estate; self-service laundromat; shoe repair; spas; tanning salons; travel agencies; video rental stores and other similar establishments.

Photovoltaic Technology Materials and devices that absorb sunlight and convert it directly into electricity.

Plat<sup>23</sup> A scaled, graphic drawing of a land subdivision project prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of a subdivision.

Preliminary Plat<sup>23</sup> A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development, and is prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance.

Preschool<sup>23</sup> Use of a site for the provision of pre-elementary educational services on a scheduled basis to children through kindergarten. If the West Virginia Department of Education establishes requirements for a preschool, the land use shall meet these requirements.

Preservation of a Historic Site<sup>35</sup> The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

Primary Public Safety Provider<sup>22</sup> An FCC licensed governmental user that uses wireless telecommunication facilities to provide primary communications for law enforcement, fire, ambulance or related emergency services. Primary Public Service Provider does not include Commercial Wireless Service Providers, or Competitive Local Exchange Carriers (CLEC), who provide telecommunication services on a commercial basis to Primary Public Service Providers, or who deliver emergency calls or messages from its customers to a Public Safety Answering Point (PSAP).

Principal Permitted Use<sup>23, 31, 32</sup> Any use included on the Principal Permitted and Conditional Uses Table (Appendix C) which is or may be lawfully established in a particular district, approved by the Office of Planning and Zoning without requirement of approval by a board or commission, provided the use conforms with all applicable requirements of this Ordinance. Such use does not include Conditional Uses as defined in this Ordinance.

Principal Use<sup>23</sup> The primary or predominant use of any site.

Printing and Publishing<sup>27</sup> A printing operation of an industrial scale, involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing,

Soil Value	A relative numeric value assigned to soil groups based on the group's potential for agricultural production.
<u>Solar Decommissioning Plan</u>	<u>A plan certified by a West Virginia Licensed Professional Engineer that outlines the removal and proper disposal of the components of the Solar Energy Facilities and property restoration; including, the timeline for the removal at the end of the lease and/or when production of electricity ceases, the estimated cost of the removal, the estimated salvage value of the material, equipment, devices, etc., and the reasonable restoration of the real property upon which such Solar Energy Facilities are located, including soil stabilization and re-vegetation of the ground cover of the property which may be disturbed due to the location, installation, or removal of such facilities. The Plan may also include a list of specific items that are requested to remain on site for the benefit of the property owner.</u>
<u>Solar Energy Facility</u>	<u>A facility that generates electricity from sunlight by utilization of photovoltaic (PV) technology and distributes the generated electrical power. On-site components of the facility may include solar panels and other accessory components including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, and other improvements necessary to support generation, collection, storage, and transmission of electrical power.</u>
Special Event <sup>39</sup>	A gathering of individuals for the common purpose of attending a celebration, ceremony, reception, or similar activity for the benefit of someone other than the property owner. Private parties, gatherings, and similar activities that are not subject to a use agreement between a private individual or group and the property owner are not defined as a special event.
Special Event Facility <sup>39</sup>	A facility where special events are permitted to occur. Special event facilities are subject to a use agreement between a private group or individual and the facility owner. The facility owner may or may not charge a rental fee for the use of the facility. Facilities may operate entirely within a structure, entirely outside of a structure, or both inside and outside a structure.
Special Event Facility, Agricultural <sup>39</sup>	A Special Event Facility located on a parcel which the Assessor's Office has classified as "farm use".
Species, Rare or Endangered	Any species listed with the West Virginia Department of Natural Resources Heritage Program Species List or by the U.S. Department of the Interior, Department of Fish and Wildlife Management.

B. Setback Standards to operate a Nature Center and Preserve:

Enclosed structures over 250 square feet that are solely for the purpose of housing animals shall be setback 50 feet.

All structures and motorized trails shall meet commercial setbacks of 25 feet with the exception that accessory structures under 250 square feet that are associated with the maintenance of the land use shall be setback ten feet.

All non-motorized trails and non-amplified outdoor activity areas shall meet a minimum ten foot setback. Motorized vehicles associated with the maintenance of the land use are permitted within the non-motorized trails.

C. Landscaping Standards to operate a Nature Center and Preserve:

In lieu of this Ordinance's landscaping standards, a ten foot woodland preservation buffer shall be required along the perimeter of the land use. This ten foot buffer is not required along the interior property lines of the land use. There shall be no clearing or cutting within the buffer with the exception of removing dead, dying, and/or diseased trees. The woodland preservation buffer may be used for passive recreation such as pedestrian, bike, or equestrian trails provided that:

1. No trees, shrubs, hedges, or walls are removed.
2. Not more than 20% of the width of the buffer is impervious surface.
3. The total width of the buffer area is maintained.

D. Noise Standards to operate a Nature Center and Preserve:

This land use is restricted to the noise standards of Section 8.9A.1 of this Ordinance. The Residential Growth District measurement shall apply when the use is adjacent to a lot that contains a residence, or is zoned Rural or Residential Growth.

**Section 8.19 Crematorium<sup>37</sup>**

A. Crematorium, Livestock

A Livestock Crematorium shall process as a Conditional Use Permit in all zoning districts other than Rural, unless such use is determined by the Zoning Administrator to be accessory to an active agricultural use.

B. Crematorium, Pet

A Pet Crematorium shall process as a Principal Permitted or Conditional Use in zones as designated in Appendix C. In the Rural Zoning District, a Pet Crematorium may process utilizing the Site Plan Exemption for the Rural District.

**Section 8.20 Solar Energy Facilities**

Solar Energy Facilities are permitted as indicated in Appendix C.

A. Application

1. A Pre-Proposal Conference is recommended, pursuant to the Jefferson County Subdivision and Land Development Regulations.
2. A Concept Plan, pursuant to the Minor Site Development Concept Plan standards established in the Jefferson County Subdivision and Land Development Regulations is

required: except that after the Planning Commission direction is given, the next steps are Application for a Zoning Certificate and Building Permits, including submission of final Decommissioning Plan. In addition to the Concept Plan requirements outlined in the Subdivision Regulations, the Concept Plan shall also include the following standards:

- (a) Property or Properties Location
- (b) Access Points;
- (c) Anticipated location of all proposed components of the Solar Energy Facility; and
- (d) Landscaping, Buffering, Ground Cover Plan, and Fencing.

Each proposed solar panel is not required to be located on the Plan, if compliance with setbacks can be established by what is depicted on the Plan.

If the project is to be completed in phases, the Concept Plan shall reflect phasing of the project.

3. A Zoning Certificate based on an approved Concept Plan is required prior to initiating any use regarding Solar Energy Facilities.

- (a) In addition to the standards found in Section 8.20, any Zoning Certificate regarding Solar Energy Facilities shall be issued conditioned on all other State Regulations and approvals being granted, including, but not limited to, the WV Public Service Commission, WVDEP applicable NPDES Permits, Fire Marshal Approval, Building Permits through the Department of Engineering, Planning, and Zoning, and approval of the Stormwater Management Report pursuant to the Jefferson County Stormwater Management Ordinance.

## B. Standards

1. Multiple adjacent properties under the same ownership or lease by the same company shall be considered one property for the purpose of these regulations. Internal boundary lines on adjacent properties under the same ownership or lease by the same company are not subject to the setbacks or buffer requirements provided below.

### 2. Setbacks

#### a. Solar Panels

- i. Front, Side, and Rear Setbacks shall be 100 feet from all external/perimeter property lines and from the edge of the State ROW or Easement of any State Road.
- ii. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity.

#### b. Accessory components, excluding solar panels and underground utilities.

- i. Front, side, and rear setbacks shall be 25' from all external/perimeter property lines and from the edge of the State ROW or Easement of any State Road.

### 3. Buffering, Landscaping, Security, and Access

- a. Solar Panels that are located within 200 feet of any residence, Category 1 Historic Resource, Institution for Human Care, Church, or similar use or structure as determined by the Zoning Administrator, shall provide a 20 foot wide buffer along common property lines. The buffer shall be provided anywhere within the 200 foot radius from the structures/uses herein and is not required to be provided along the entire length of the common property line.

- b. The buffer screen may be either vegetative or opaque fencing and may be placed anywhere within the buffer area. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. Existing, natural vegetation may be used in lieu of a planted buffer if documentation is submitted to the Zoning Administrator verifying how the existing natural vegetation complies with the required buffer standard.
- c. Accessory Components (excluding solar panels) that are located within 200 feet of any residence, Category 1 Historic Resource, Institution for Human Care, Church, or similar use as determined by the Zoning Administrator, shall comply with the commercial provisions of Section 4.11, with the exception that the Zoning Administrator can allow the use of existing, natural vegetation as appropriate to achieve the intent of the required buffering.
- d. A security fence with secured gates shall be erected around the operating areas of the Solar Energy Facility with a minimum height of 6 feet and a maximum height of 10 feet.
  - i. Arrangements shall be made with the appropriate Fire Department for Access. A letter documenting approval of access from the Fire Department shall be provided with the Zoning Certificate application. The Fire Department shall respond within 15 days of the date of the letter. If no response is provided, the Fire Department shall be deemed by this Ordinance to have approved the access.
  - ii. Upon three business days notice by the Department of Engineering, Planning, and Zoning, access shall be provided to Staff.

#### 4. Stormwater Management

Stormwater Management shall be required in accordance with the Jefferson County Stormwater Management Ordinance. Solar Energy Facilities may be exempt from providing stormwater management if the conditions for granting exemption under Article I.D.2.h of the Stormwater Management Ordinance are satisfied.

#### 5. Decommissioning Plan

- a. W.Va. Code §7-1-3kk provides that the County Commission may enact ordinances, issue orders, and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance.
  - i. The County Commission hereby finds and declares that a solar facility that has ceased producing electricity for a period of 12 months is a public nuisance and/or hazard pursuant to West Virginia Code §7-1-3kk and other applicable authority.
  - ii. The County Commission therefore finds that an unused solar facility must be decommissioned and removed from the property on which it is located. This means that all of the solar facility's structures and other associated property must be removed from the premises and the land must be restored to a condition reasonably similar to its original condition prior to the installation of the solar facility.
  - iii. A general outline of the decommissioning of the Solar Energy Facility shall be included with the Concept Plan. This outline shall include a general discussion on the timeline of the lease or operating plan and a general plan for removal of the

Solar Energy Facility. A full Solar Decommissioning Plan is not required until submission of the Zoning Certificate application for the Facility.

- b. The County Commission finds that, as a condition of approval, a Solar Energy Facility must:
  - i. Develop a decommissioning plan acceptable to the County Engineering Staff in accord with County Solar Decommissioning Guidelines that will provide that all parts of the solar facility be removed from the premises and the land must be restored to a condition reasonably similar to its original condition prior to the installation of the solar facility; and
  - ii. Post surety in an amount that would enable the decommissioning and removal of the solar facility in accord with the County Solar Decommissioning Guidelines in the event that the solar facility has ceased to produce electricity as defined.
- c. The approved Solar Decommissioning Plan shall be submitted as part of the Zoning Certificate Application. Either the Zoning Administrator or the Applicant may request that the Planning Commission approve or disapprove any component of the Solar Decommissioning Plan.
- d. Staff shall be notified by certified mail at least 60 days in advance of the intended decommissioning of the Solar Energy Facility. Staff will place the notice on the next regularly scheduled Planning Commission meeting under “non-actionable correspondence”.
- e. Failure of the Lessee or Property Owner to meet and/or comply with the Solar Decommissioning Plan may result in the County pursuing legal action pursuant to Section 3 of this Ordinance, including legal action to have the Solar Energy Facility, or portions thereof as applicable, removed at the Property Owner’s expense. The County may seek to recover its costs, legal fees, and legal expenses incurred to have the facility decommissioned in compliance with the Solar Decommissioning Plan.

### C. General Requirements

1. Design, construction, and installation of the Solar Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM) or other similar certifying organizations and shall comply with the West Virginia Fire and Building Codes, including compliance with the Jefferson County Building Code.
2. Prior to commencing the transmission of electricity, the Solar Energy Facility shall provide documentation evidencing an interconnection agreement or similar agreement with the applicable public utility or approved entity in accordance with applicable law.
3. Generation of electrical power shall be limited to photovoltaic panels, provided that any on-site buildings may utilize integrated photovoltaic building materials.
4. Solvents necessary for the cleaning of the Solar Panels shall be biodegradable.
5. Internal wiring, excluding that which is on or between the Solar Arrays, connected to substations or between Solar Panels, shall be located underground, accept where necessary to mitigate impact to environmental and/or terrain features.

6. Onsite lighting shall be minimum necessary for security and onsite management and maintenance and shall comply with the standards outlined in the Subdivision Regulations.
7. Photovoltaic Panels shall use antireflective glass that is designed to absorb rather than reflect light.
8. Ground Cover comprised of natural vegetation is required. Ground cover that uses native or naturalized perennial vegetation and that provides foraging habitat that is beneficial for songbirds, gamebirds and pollinators is encouraged but not required.
9. Collocation of other agricultural activities such as small market hand-picked crops, grazing and apiary activities are permitted and encouraged.
10. No signage or advertising is permitted on the Solar Energy Facilities other than an identifying sign at the entrance of the Facility that shall be approved by the Zoning Administrator in accordance with Article 10. All other signage must be approved by Special Exception by the Board of Zoning Appeals.
11. Solar Energy Facilities shall comply with Article 8, Section 8.9 of this Ordinance.
12. The Solar Energy Facility Use is not considered abandoned until such time it is Decommissioned.
13. Damaged or unusable panels shall be removed within 60 days from discover of damage; provided, however, longer periods may be approved by the County Engineer due to extenuating circumstances.

ZTA19-03 - PC Recommended DRAFT from 03-09-21 to County Commission for 03-18-21 Meeting  
DRAFT Zoning Ordinance Text Amendment RE Solar Energy Facilities

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses continued</b>													<b>Sec. 8.9</b>
Restaurant	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Retail Sales Limited	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Retail Sales and Services, General	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Retail Store, Large	NP	CU	P	CU	NP	CU	NP	CU	CU	CU	CU	CU	
Shipping and Mailing Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
<u>Solar Energy Facility</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>Sec. 8.20</u>
Special Event Facility	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.14
Storage, Commercial	NP	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Veterinary Services	P	P	P	P	CU	P	P	P	CU	P	P	CU	
Wireless Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	Art. 4B
<b>Agricultural Uses*</b>													
Agricultural Uses, as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P	
Agricultural Repair Center	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Crematorium, Livestock <sup>37</sup>	CU	CU	CU	CU	CU	CU	CU	P	CU	CU	CU	CU	Sec. 8.19
Farm Brewery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Winery or Distillery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Farmer's Market	P	P	P	NP	NP	P	NP	P	CU	P	NP	CU	Sec. 8.6
Feed and/or Farm Supply Center	CU	P	P	P	P	P	P	P	CU	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	CU	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	CU	P	P	NP	
Rental of Existing Farm Building for Commercial Storage Structure must have existed for 5 years	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Special Event Facility, Agricultural	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.14
<b>Accessory Uses</b>													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

- |                                      |   |
|--------------------------------------|---|
| NC Neighborhood Commercial           | OC Office / Commercial Mixed-Use                      |
| GC General Commercial                | R Rural   |
| HC Highway Commercial                | RG Residential Growth District                        |
| LI Light Industrial                  | RLIC Residential-Light Industrial-Commercial District |
| MI Major Industrial                  | IC Industrial-Commercial District                     |
| PND Planned Neighborhood Development | V Village District                                    |

P Permitted Uses

NP Not Permitted Uses

CU Conditional Uses (subject to requirements of district and/or other requirements of this Ordinance)

\*\* Accessory Use to a planned residential community, if permitted pursuant to Section 5.4 and processed as a CU

<sup>1</sup> The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.

<sup>2</sup> Approval process is per the Salvage Yard Ordinance.