



302 N. Main Street
Culpeper, Virginia 22701

UTILITY SCALE SOLAR FACILITY DEVELOPMENT POLICY

WHEREAS, the Code of Virginia (1950), as amended, at Title 67, Section 67-103. Role of Local Governments in Achieving Objectives of the Commonwealth Energy Policy, addresses the regulatory arrangement in the Commonwealth of Virginia as to renewable energy; and

WHEREAS, the General Assembly of the Commonwealth of Virginia has enacted statutes that limit a locality's ability to establish ordinances regarding renewable energy facilities by requiring such ordinances to:

1. Be consistent with the provisions of the Commonwealth Energy Policy pursuant to subsection C of §67-102;
2. Provide reasonable criteria to be addressed in the siting of any renewable energy facility that generates electricity from wind and solar resources. The criteria shall provide for the protection of the locality in a manner consistent with the goals of the commonwealth to promote the generation of energy from wind and solar resources; and
3. Include provisions establishing reasonable requirements upon the siting of any renewable energy facility, including provisions limiting noise, requiring buffer areas and setbacks, and addressing generation facility decommissioning; and

WHEREAS, Culpeper County will require those requesting to establish utility scale solar energy generation facilities in the A-1 (Agricultural) and RA (Rural Area) Zoning Districts to obtain a conditional use permit, pursuant to Article 17 of the Culpeper County Zoning Ordinance; and

WHEREAS, in accordance with Article 17 of Appendix A of the Culpeper County Code, any solar energy generation facilities found to: 1) Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use; 2) Be detrimental to the public welfare or injurious to the property or improvements in the neighborhood; or 3) Be in conflict with the purposes of the Comprehensive Plan of the County of Culpeper, will be not be approved under any circumstance;

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors will review renewable energy facility use permit applications on a case-by-case, individual basis in consideration of the factors and criteria set forth in the application submittal. The County reserves the right to collect reasonable building permit fees, plan review fees and other associated fees as needed to properly administer the goals established in this policy; and

BE IT FURTHER RESOLVED that the attached Draft Example Conditions for Renewable Energy Facility Use Permits and the stipulations outlined below shall be used as a guideline in the consideration of all applications for such facilities.

UTILITY SCALE SOLAR FACILITIES – GENERAL GUIDELINES

1. Culpeper County seeks to establish “draft” or “example” conditions for renewable energy facility use permits as an addendum (SEE EXHIBIT A) to this policy to help guide the County’s review of and the applicant’s submission of any future applications for renewable energy generation facilities. The County shall consider the economic impact of any conditions considered, attendant to the conditional use permit, to be imposed upon the Solar Energy Generation Facility.
2. Studies* reflect that the operation of Solar generation facilities, post-construction, do not pose any identified noise, toxicity, or EMF/Radiation concerns. Thus, each of these factors would unlikely be considered as the sole reason for denial of a conditional use permit.
3. Culpeper County seeks to ensure that any utility scale renewable energy generation facility is consistent with and furthers the goals as found in the most current Comprehensive Plan. Furthermore, Culpeper desires to balance this land use with the various and valuable existing and planned land uses and resources throughout the County and to that end, the following elements, at a minimum, should be considered, studied, researched, and vetted with each and every application for a renewable energy facility:
 - A. Culpeper County desires to protect the County’s historic properties and resources as identified by balancing those interests with the interests of the solar generation facilities.
 - i. Setbacks and buffering should be considered when an application is adjacent to such resource.
 - ii. Certain property, because of its historic value, should be discouraged from this land use entirely.
 - B. Culpeper County desires to protect and enhance its agricultural and rural heritage and resources.
 - i. Among other things size and scale of a renewable energy generation facility should strongly be considered in order to maintain the County’s rural viewshed and character.
 - ii. Siting of a facility on prime agricultural soils is discouraged. Non-agricultural producing lands or land which is of lower agricultural value should be

¹ *For example, based upon “Health and Safety Impacts of Solar Photovoltaics” produced by the NCDlean Energy Center, NC State University, which also cites numerous additional studies and sources.

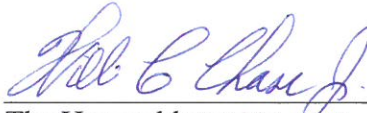
explored first, e.g. State Land Evaluation and Advisory Council (SLEAC) and soils classification may be considered in determining agricultural value.

- iii. In order to protect the integrity of agricultural soils, mass grading of sites shall be limited to the extent possible.
 - iv. Facilities on or adjacent to agricultural and forestal district properties shall take into account the impact upon such districts, if any.
 - v. A plan should be developed with any proposal to minimize any negative visual impact to the greatest extent possible.
 - C. Culpeper County desires to protect and enhance its economic and employment producers.
 - D. Culpeper County desires to protect its interests at the Culpeper Regional Airport. Any application for a utility scale solar facility shall include the data necessary to perform an analysis using the Solar Glare Hazardous Analysis Tool (SGHAT) available from the Federal Aviation Administration.
 - E. All solar panels will be designed to minimize the reflection of light.
4. The applicant shall provide information demonstrating the local economic benefits of the project or a cost/benefit analysis. Prior to the issuance of a land disturbance permit, the Applicant may also enter into a written agreement with the County providing for payments to the County in addition to real estate taxes.
 5. The applicant must provide written comments from the relevant electric company regarding the capacity of the transmission lines as part of any use permit application. An applicant can satisfy this requirement by submitting proof of application for interconnection to the electricity system.
 6. The applicant shall provide a decommissioning plan, which will be required to be updated every three (3) years to insure (i) that the real property will be returned to its original condition upon closure of any facility, or at the end of its useful life, and (ii) that decommissioned equipment and panels are disposed of appropriately and in an environmentally sound manner. Favor will be given to decommissioning plans that provide for recycling of equipment and panels. In any event, decommissioning shall be guaranteed by cash, commercial surety, letter of credit, performance bond, etc. subject to the approval of the County Attorney and in accordance with any adopted County policy. Favor shall be afforded to surety in the form of cash and letter of credit. Moreover, final reporting at the conclusion of decommissioning will be required before any guarantee is released.
 7. Noise, traffic, and other impacts are identified with regard to the construction and decommissioning attendant to these projects. Applications for utility scale solar facilities shall address mitigation of impacts not only upon completion of the facility, but also these and other identified impacts occurring during construction and at the time of decommissioning. Stormwater management must be specifically addressed as part of any application, at all stages of construction, operation, and decommissioning. During construction, mass grading of an approved site shall be

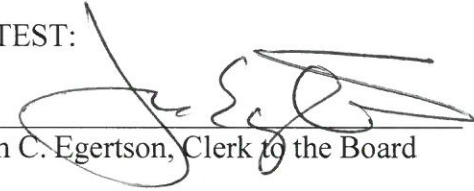
limited.

8. Site Plan, Building Permit, Plan Review, and other associated fees will be collected based upon the County fee schedule. Reductions of such fees will not be negotiated.
9. No facility shall be located on a property designated by the Virginia Department of Historic Resources (DHR) as a core historic battlefield area (SEE EXHIBIT B). Battlefield study areas will be considered sensitive. Any facility adjacent to a significant historic resource shall have a vegetative buffer pursuant to Article 33-9(c)(4) of the Culpeper County Zoning Ordinance. Screening of historically significant properties and the viewshed for those properties is desired. The County may require screening of any use, or portion thereof, upon determination that the use would otherwise have a direct negative visual impact. Visual impact on property designated as historic by its inclusion in the Comprehensive Plan or as defined by 9VAC15-60-10 (Definitions) of the Code of Virginia as a "Historic Resource" shall be minimized to the greatest extent possible.
10. The cumulative impact of previously approved or permitted sites shall be considered.

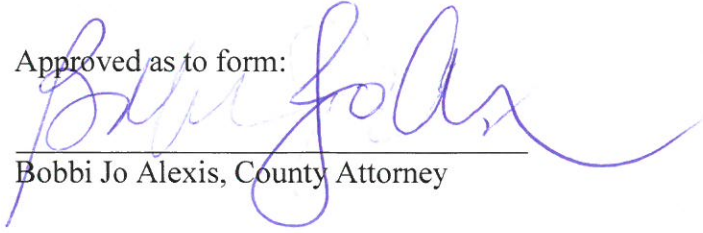
This Policy is adopted effective April 3, 2018.


The Honorable William C. Chairman
Culpeper County Board of Supervisors

ATTEST:


John C. Egertson, Clerk to the Board

Approved as to form:


Bobbi Jo Alexis, County Attorney

Draft Example Conditions for Renewable Energy Facility Use Permits

The following stipulations are suggested as a condition of approval for any utility scale solar facility. These conditions are not all inclusive, as additional conditions may be deemed necessary in order to mitigate impacts based upon specific site conditions. Likewise, the conditions below may need to be modified, or even deleted based upon specific site conditions. Final conditions set for any use permit will be at the sole discretion of the Culpeper County Board of Supervisors.

1. **Use Permit is nontransferable.** This permit shall be granted solely for the subject property for operation of a utility scale solar facility. This conditional use permit shall be binding on any successors, assignees, current or future lessee, sub-lessee, or owner of the renewable energy facility.
2. **Access.** Access for inspections shall be accommodated for staff and/or other appropriate County officials with a 24-hour notice to the applicant.
3. **Maintenance of site features.** All site features, including landscaping, fencing, etc. shall be properly maintained throughout the life of the permit. Maintenance of such features may be guaranteed by a surety agreement and a surety acceptable to the Culpeper Attorney as required by the Board of Supervisors.
4. **Submission of site plan.** A site plan in accordance with Article 20 of Appendix A of the Culpeper County Code shall be submitted prior to issuance of any building permits.
5. **Decommissioning of facility.** Either at the end of its lifespan or in the event of inactivity for more than two consecutive years, this facility must be decommissioned. All solar panels and pilings shall not be anchored with concrete footings for ease of removal after the useful life of the facility. The decommissioning plan shall include the removal of all surface and subsurface features. The plan shall be updated every three (3) years as necessary.
 - a. **Notice of inactivity-** The applicant or owner shall be responsible for notifying the Zoning Administrator within 30 days of the facility becoming inactive or after it no longer produces electric power for transmission by a public utility. Notification shall be provided in writing.
 - b. Failure to return the facility to an active status, producing electric power for a period of two consecutive years shall constitute grounds for special use permit revocation.
 - c. **Decommissioning process-** Upon completion of the facility's lifespan or following revocation of the special use permit, the facility shall be decommissioned and the site shall be returned to the condition which existed prior to construction of the facility, including removal of all equipment and debris.
 - d. Trenches or other borings or excavations made in association with the facility shall be filled and compacted.
 - e. All wetland protections, natural vegetation, erosion control, and stormwater features shall remain in place.

- f. The Applicant or owner shall provide a decommissioning plan to staff and obtain all required permits prior to conducting decommissioning activities.
 - g. All decommissioning activities shall be completed within nine (9) months of providing notice of inactivity.
 - h. If the facility is not removed within the specified time herein, the County may cause the removal of the facility, with costs being borne by the project owner, the property owner, or both.
 - i. A surety agreement for decommissioning and surety in a form acceptable to the County Attorney shall be submitted prior to the issuance of a construction permit. The surety amount shall be reviewed every 3 years and adjusted according to inflation. The surety agreement and guarantee may also specify that the land owner is responsible for decommissioning in the event that the applicant/project owner fails to perform.
- 6. Fire & EMS coordination and training.** The applicant will work proactively with the Director of Emergency Services to develop an agreed-upon set of procedures and protocols for managing risk of fire and for responding in the event of an emergency at the facility. The applicant will provide:
- a. Emergency communications direction as well as emergency phone numbers and key points of contact.
 - b. Special training for fire and emergency services personnel and a tour of the site to ensure upfront awareness of the site and equipment as well as points of ingress/egress.
 - c. Designated shut off procedure and location for equipment shut off.
 - d. Maps outlining the location of key equipment such as the location of lockboxes, inverters, transformers, system/electrical cut-off switches and points of ingress/egress at the facility.
- 7. Noise.** All construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., M-S and will be prohibited on Sundays. This conditions shall apply to noise generated during the construction of the facility and to its ongoing operation and maintenance.
- 8. Entrance requirements.** The following conditions shall apply to the property entrances:
- a. The applicant shall obtain all required permits from VDOT and complete all required improvements to the property entrances prior to issuance of a building permit.
 - b. In the event that there is damage to the adjoining properties as a result of ingress/egress of construction vehicles, the applicant shall remedy all damage in full prior to issuance of a certificate of occupancy.
 - c. Access roads are to be marked with identifying signage.
- 9. Landscaping Plan.** The intent of any landscaping plan is to provide buffering, screening of adjacent uses such as residential dwellings, public facilities and or resources, public transportation corridors, etc. The following conditions shall govern the installation of landscaping in accordance with the approved plan:
- a. All landscaping shown on the approved landscaping plan shall be installed and shall be in good condition prior to issuance of a Certificate of Occupancy and prior to beginning production of electric power.

- b. In the event that the applicant requires a minor deviation from the approved landscaping plan or site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Planning Staff.
 - c. In areas where there is not at least 50' of a native timber buffer remaining on the project parcel, a minimum of a double row of evergreens will be planted within any required setback and/or buffer area. All native timber buffers are subject to review and approval by the County. The use of native timber and natural screening is preferable. Such evergreens shall be planted, at a minimum, on fifteen (15) foot centers, with rows offset. The evergreens installed shall have an anticipated mature height of thirty (30) to forty (40) feet. The composition of this landscape buffer may be a mixture of evergreens and/or deciduous trees as deemed appropriate by the Board of Supervisors. These evergreens shall be planted during the appropriate time of year, subsequent to the completion of construction. (This requirement may be reduced or waived if agreed to, in writing, by the owner of the adjacent residence, including residences across a public right of way.) The composition and layout above is suggested as a typical planting arrangement, however the County reserves the right to modify this depending on the circumstances.
 - d. Evergreen plantings shall have a minimum beginning planting height of 6 feet. Any deciduous tree shall have a minimum caliper of two to two and one-half inches measured six inches above final grade at the time of planting.
 - e. All landscaping will be reviewed by the County following installation, at one year completion, and as necessary after this to ensure the landscaping is being maintained.
 - f. The County reserves the right to impose conditions on the site plan approval which specify species of landscaping, for example pollinator species.
 - g. The use of herbicides and pesticides shall be limited or prohibited.
- 10. Signage.** No signage of any type may be placed on the facility other than notices, warnings, and identification information required by law. During construction only, limited signage may be permitted to identify the companies performing the construction and to provide notice to the general public.
- 11. Security/Fencing.** The facility should be enclosed by security fencing not less than six (6) feet in height. Type of fencing shall be in keeping with the area character as much as possible. For example, board fencing may be a more suitable security fencing which more closely matches area character and/or improves aesthetics. However, any fencing desired shall be required to meet the standards of the National Electric Code and other applicable safety regulations.
- 12. Lighting.** Lighting shall be the minimum necessary for safety and/or security purposes and shall use shielded fixtures to minimize off-site glare. Any desired lighting shall comply with Article 32 of the Zoning Ordinance.
- 13. Structures.** Any proposed structures shall be of a neutral color so as to reduce visual obtrusiveness. Any supporting electrical and mechanical equipment such as racking for the panels, inverters, etc. must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make related equipment more visually unobtrusive.

- 14. Acquiring Permits.** Zoning and Building permits must be obtained within 12 months of obtaining this conditional use permit. The generation of electricity shall commence within two (2) years of issuance of the building permit, otherwise the conditional use permit shall be null and void.
- 15. Setbacks/Buffers.** A minimum setback of one hundred and fifty (150) feet shall be maintained from any above ground equipment to the nearest property line. This requirement may be reduced or waived if agreed to in writing by the owner of the adjoining property. This area may include the requirement to maintain any existing vegetation and/or fencing that is in place and may require supplementary landscaping. These setback requirements shall not apply to any interior property lines that may exist.
- 16. Annual Notice of Activity.** The County will require as practical for the owner of an approved facility to provide an annual statement of activity. This will help ensure that the facility is still actively producing electricity for the power grid.
- 17. Violation of Conditions.** A Notice of Violation shall be sent to the owner of the facility and the landowner if there is evidence that suggests the use is not in conformance with any of the adopted conditions of approval. If violations remain after notice of violation is received, any continued violation of any of the conditions of approval shall be grounds for revocation of the conditional use permit.

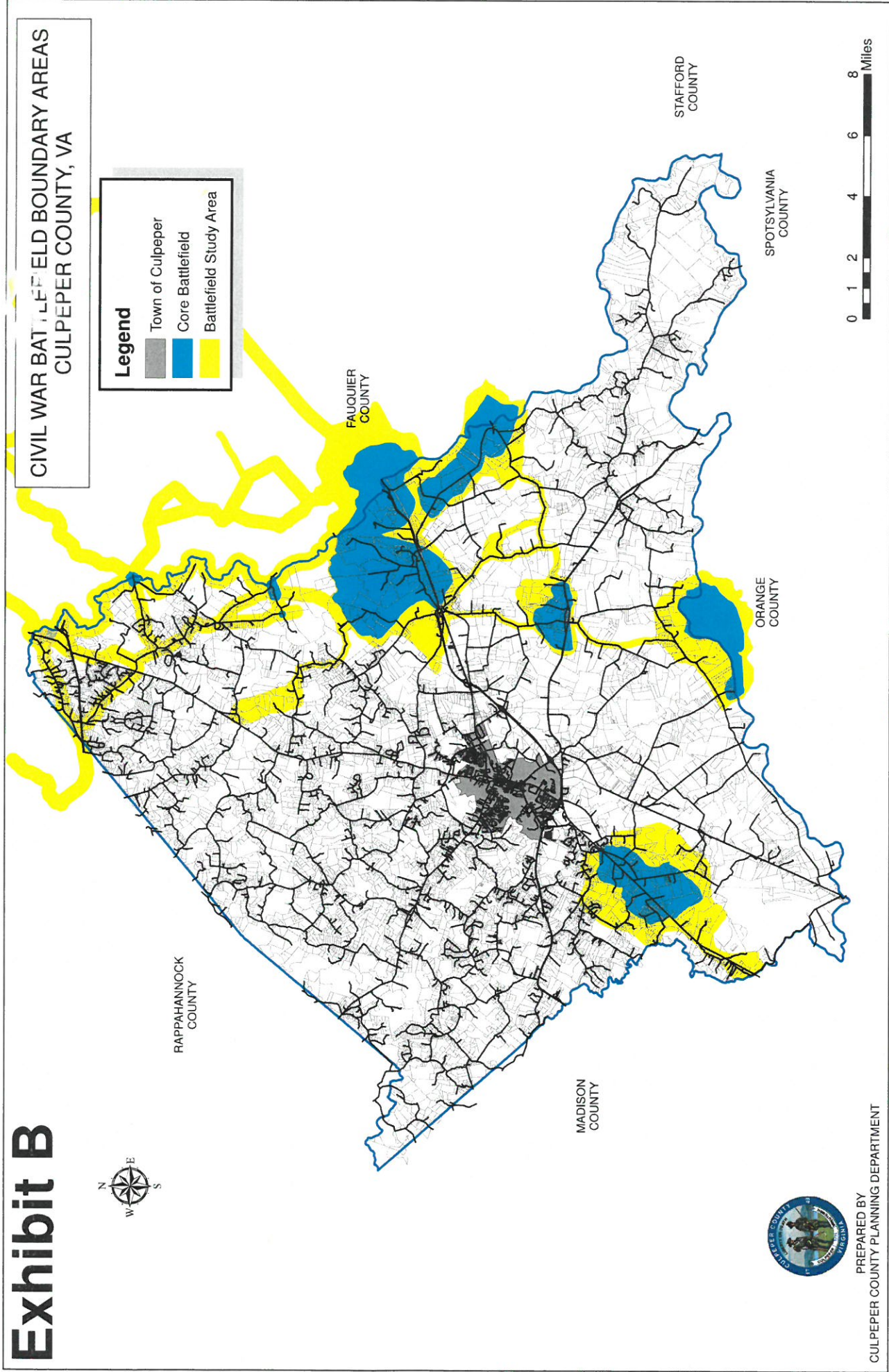
Exhibit B

CIVIL WAR BATTLEFIELD BOUNDARY AREAS CULPEPER COUNTY, VA



Legend

- Town of Culpeper
- Core Battlefield
- Battlefield Study Area



PREPARED BY
CULPEPER COUNTY PLANNING DEPARTMENT