

**NOTICE IS HEREBY GIVEN THAT
THE SURRY COUNTY BOARD OF SUPERVISORS
WILL HOLD A PUBLIC HEARING ON
THURSDAY, APRIL 3, 2025, AT 6:00 P.M.
IN THE GENERAL DISTRICT COURTROOM LOCATED AT
THE SURRY COUNTY GOVERNMENT CENTER
45 SCHOOL STREET, SURRY, VIRGINIA
TO CONSIDER AND INTENDS TO TAKE ACTION ON THE FOLLOWING:**

ORDINANCE 2025-02 (PC ORDINANCE AMENDMENT 2024-04): The Board of Supervisors will consider an ordinance amendment initiated by Clenera, LLC and intends to take action on the adoption of amendments to the Surry County Zoning Ordinance by amending Article II - Definitions and Uses, Article III – Zoning Districts and Boundaries, and Article IV – Supplementary Regulations to amend, incorporate and add language regarding definitions, use type descriptions, district requirements, application requirements, required plans, and performance standards for Battery Energy Storage Systems to allow this use as an accessory or by conditional use permit in Agricultural-Rural, M-1 and M-2 General Industrial.

The public hearing will be held pursuant to § 15.2-2204, and § 15.2-2285 of The Code of Virginia (1950, as amended). A copy of the proposed ordinance and related material may be reviewed or obtained on the County's website at <https://www.surrycountyva.gov/413/Public-Notices>, or a copy of the proposed ordinance and related material may be examined at the Department of Planning and Community Development, Surry County Government Center, 45 School Street, Surry, Virginia. Office hours are Monday through Friday from 9:00 am to 5:00 pm.

All interested persons are invited to participate in the public hearing. If assistance or special accommodations are needed to participate in the hearing, please contact the Department of Planning & Community Development Monday – Friday from 9:00 a.m. to 5:00 p.m. at least 72 hours prior to the hearing.

Horace H. Wade III, Director
Department of Planning & Community Development
(757) 294-5210

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ARTICLE II. DEFINITIONS AND USES

Commented [A1]: BESS is permitted in the A-R, M-1, and M-2 District by Special Exception (Conditional Use Permit).

2-100. Definitions

Sec. 2-101. General rules of construction.

- A. The following general rules of construction shall apply to the regulations of this ordinance:
1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
 2. Words used in the present tense include the past and future tenses, and the future the present.
 3. The word "shall" is always mandatory. The word "may" is permissive.
 4. The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure".
 5. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.
 6. The terms "main" and "principal" as used herein are synonymous.
 7. Any words pertaining to gender shall be interchangeable. The word "he" shall mean "she", and "she" shall mean "he".
 8. The word "person" includes a "firm, association, organization, partnership, trust, company," as well as an "individual."
 9. The word "county" shall mean Surry County, Virginia.

Sec. 2-102. Definitions.

For the purpose of this ordinance, the following terms and words are hereby defined:

Accessory building or structure. A building or structure detached from a main building on the same lot (except as otherwise provided in this ordinance) and customarily incidental and subordinate to the main building or use. Where an accessory building or structure is attached to the principal building in a substantial manner, as by a wall or roof, such accessory building shall be considered a part of the principal building.

Accessory use. A use customarily incidental and subordinate to, and (except as otherwise provided in this ordinance) on the same lot as a principal use. When the term "accessory" is used in this ordinance, it shall have the same meaning as "accessory use".

Act. The Chesapeake Bay Preservation Act (CBPA) found in Chapter 21 (§ 10.1-2100 et seq.) of Title 10.1 of the Code of Virginia. The word Act does not refer solely to the Chesapeake Bay Preservation Act, and the acronym CPBA is also utilized to represent the Chesapeake Bay Preservation Area.

Administrator. The Zoning Administrator of Surry County, or their duly authorized designee. The director of planning shall serve as the administrator unless an alternate position or individual is specifically appointed by the board of supervisors.

Alley. A public or private way less than 30 feet in width and affording secondary means of access to abutting property.

Alteration. (See Structural alteration).

Animal unit. A unit of measure used to determine the total number of single animal types or combination of animal types which are fed, confined, maintained or stabled in an animal feeding operation. An animal unit equals 1,000 pounds of live weight. Combinations of animal types that exceed 300 units are classified as a confined animal feeding operation (CAFO) as described in section 2-202 of this ordinance.

Battery(ies). A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically and are used in a battery energy storage system.

Battery management system (BMS). An electronic regulator that manages a battery energy storage system by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and being able to shut down the system before operating outside safe parameters.

Base flood (one-hundred year flood). A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

Base flood elevation (BFE). The Federal Emergency Management Agency designated 100-year water surface elevation.

Basement. That portion of a building that is partly or completely below grade. A basement shall be counted as a story if it's ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls. For purposes of the Floodplain District only, a basement shall be any area of the building having is floor subgrade (below ground level) on all sides.

Best management practice (BMPs). A practice, or combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practicable means of preventing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Block. That property fronting on one side of a street or road and lying between two intersecting streets or roads or otherwise limited by a railroad right-of-way, a live stream, or un-subdivided tract, or other physical barrier of such nature as to interrupt the continuity of development.

Board. The term board shall refer to the Board of Supervisors of Surry County, Virginia, unless otherwise specifically indicated.

Board of zoning appeals (BZA). The term shall refer to the Surry County Board of Zoning Appeals.

Buffer area. An area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

Buildable area. The area of that part of the lot not included within the yards or "open spaces" herein required.

Buildable width. The width of that part of a lot not included within the open spaces herein required.

Building. A structure with a roof designed to be used as a place of occupancy, storage, or shelter.

Commented [A2]: Standard definitions related to BESS and used in the BESS-specific ordinance.

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Building, completely enclosed. Any building having no outside openings other than ordinary doors, windows, and ventilators.

Building coverage. That percentage of a lot which when viewed from above would be covered by a structure or any part thereof excluding roof eaves.

Building, height of. The vertical distance from the average" established curb grade or from the average level of the finished grade at the front building line, if higher, to the highest point of the coping of a flat roof, or to the deck line or highest point of coping or parapet of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a building with a shed roof is within 35 feet of a street, the height of such building shall be measured to the highest point of coping or parapet. (For exemptions, see section 4-102)

Building, main. The principal building or buildings on a lot housing the principal use on the lot.

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Sec. 2-202. Use type descriptions.

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CIVIC USE TYPES

Battery energy storage system (BESS). A facility that houses battery energy storage equipment and technology that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored. Facilities are generally, but not always, used to supplement grid storage capacity. This definition does not include battery technologies utilized in consumer products and motor vehicles. In the Emerging Technology Zoning District, this use would be defined as an Energy Storage Facility.

Camp. A use that primarily provides recreational opportunities of an outdoor nature on a daily or overnight basis. Included in this use type would be scout camps, religious camps, children's camps, wilderness camps, and similar uses which are not otherwise specifically described in this ordinance.

Cemetery. A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

Child care institution. Any institution maintained for the purpose of receiving children for full-time care, maintenance, protection and guidance separated from their parents or guardians. This shall not include primary or secondary educational facilities or summer camps.

Club. A use providing meeting, or social facilities for social clubs, fraternal/sororal organizations, lodge, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. This definition excludes hunt clubs and dance halls, which are defined separately.

Community center. A place, structure, or other facility used for providing civic and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. This use can also be referred to as a convention or civic center.

Commented [A3]: The "Use-Type" is defined as a Battery Energy Storage System (BESS) and is considered a Civic Use, in the same category as solar and other utilities.

Community recreation. A recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are proposed or planned in association with development and are usually located within or adjacent to such development. Such uses may include clubhouses, swimming pools, work out facilities, and tennis courts.

Community-scale solar energy facility. An energy generation with a rated capacity greater than 1 MWac (megawatts alternating current) and no greater than 5 MWac. Facilities do not require connections to high voltage transmission lines.

Correctional facility. A public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

Crisis center. A facility providing temporary protective sanctuary for victims of crime or abuse, and homelessness including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

Cultural service. A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences. Such uses shall include, but are not limited to libraries, museums, art galleries, and art centers.

Day care center. A facility that provides care during part of the day only to: (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care; and/or (ii) two or more adults and which includes personal supervision of the adults and promotes social, physical, and emotional well-being through companionship, self-education and leisure time activities.

Distributed solar energy facility. An solar energy generation facility with a rated capacity less than MWac. Distributed solar energy facilities are used to meet energy demands on-site and include rooftop and groundmounted photovoltaic arrays on residential, commercial, and institutional properties.

Educational facility. An educational institution, whether it is public, private or parochial, recognized or authorized by the Commonwealth of Virginia (or a similar reputable accreditation institution) to offer instruction in the branches of learning and study typical of primary, secondary, or collegiate institutions and authorized to award diplomas, or associate, baccalaureate or higher degrees. This shall include publicly supported vocational schools, but shall not include business and trade schools described as a commercial use type.

Halfway house. An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction or similar disorders, and/or to persons re-entering society after being released from a correctional facility or other institution.

Nursing home. A facility whose primary function is to provide nursing, assisted living, and health-related services for the treatment and inpatient care of two or more unrelated individuals, including facilities known as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities. A hospice is also included in this use. Excluded from this use type is any facility providing surgical or emergency medical services and facilities providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Park and ride facility. A publicly owned, short-term parking facility for commuters.

Post office. Postal services directly available to the consumer operated by the United States Postal Service.

Public facilities. Facilities owned and operated by a government or quasi-government agency accommodating offices, safety and emergency services, and places of public assembly. Typical uses include federal,

state and county offices, auditoriums, sports auditorium, convention facilities, fairgrounds, and police, fire and ambulance services.

Public maintenance facility. A government owned or operated facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities.

Public park and recreational area. Government owned and operated park, picnic area, playground, indoor or outdoor athletic facility, game preserve and open space.

Religious assembly. A use providing regular organized religious worship and related incidental activities within or out of a structure including accessory uses, such as daycare facilities, but not including educational facilities, primary and secondary.

Rehabilitation service. A use providing recuperative or similar services for persons requiring rehabilitation assistance as a result of physical, mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a 24-hour day.

Utility service/major. A service of a regional nature which normally entails the construction of new buildings or structures such as switching facilities and stations or substations, community waste water treatment plants, and water supply and production in excess of 50,000 gallons per day. Included in this definition is also electric, gas and other utility transmission lines of a regional nature that are not otherwise reviewed and approved by the Virginia State Corporation Commission.

Utility service/minor. A services which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, remote switching stations well, water, and sewer pump stations.

Utility-scale solar energy facility. A solar energy generation facility with a rated capacity greater than 5 MWac.

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3-300. A-R Agricultural-Rural District

Sec. 3-301. Purpose of the district.

The purpose of this district is to protect and conserve agricultural and forest lands in large enough tracts that will have the greatest probability of preserving the rural character and heritage of the community and serve as a working-and-living landscape in perpetuity. These agricultural and forest lands, and in particular the family farms, have framed the way of life and local economy for generations and should continue to play an important role in the county.

While preserving the rural heritage is critical, it is also important to enable each landowner with the ability to make a reasonable economic return from the use and future use and sale of their land. This should be accommodated without compromising basic community objectives such as preserving prime agricultural lands and discouraging strip residential development along the primary and secondary roads in the county. And while some uses might best be located in a rural area due to their characteristics, not all uses are necessarily appropriate throughout the community or this district. Therefore, many uses require additional approvals from the county

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before they can be established. In addition, large residential developments are prohibited. Ultimately, however, those areas devoted to residential and other non-rural uses should meet the needs and desires of those who choose to live and work in a rural area.

Sec. 3-302. Permitted uses.

- A. The following uses are permitted by right subject to all other applicable requirements contained in this ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

AGRICULTURAL USES

Agriculture*
Farm Employee Housing*
Greenhouse, Private
Roadside Stand*
Sawmill*
Silvicultural activities*
Stable, Commercial*
Stable, Private*

RESIDENTIAL USES

Accessory Apartment*
Dwelling, Single-Family, Detached
Dwelling, Single-Family, Farm
Family Day Care Home
Group Home
Guest House*
Home Occupation, Community*
Home Occupation, Rural*
Kennel, Private*
Manufactured Home, Class A
Manufactured Home, Class B
Temporary Emergency Housing*

CIVIC USE TYPES

Camp*
Cemetery
Club

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Community Center
Community Recreation
Cultural Service
Day Care Center
Park and Ride Facility
Post Office
Public Facilities
Public Maintenance Facility*
Public Park and Recreational Area
Religious Assembly
Utility Service/Minor

COMMERCIAL USE TYPES

Agricultural Service*
Antique Shop
Construction Office, Temporary
Golf Course
Real Estate Office, Temporary
Studio, Fine Arts
Taxidermy*

MISCELLANEOUS USE TYPES

Amateur Radio Tower*
Hunt Club
Hunting Preserve
Outdoor Gathering*
Parking Facility
Turkey Shoot*
Windmill*

- B. The following uses are allowed only by special exception from the board of zoning appeals pursuant to section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

RESIDENTIAL USES

Manufactured Home, Family Member Residence*
Manufactured Home, Temporary Residence*

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CIVIC USES

Day Care Center

COMMERCIAL USE TYPES

Campground, Workforce*

Office, General

Taxidermy

Veterinary Hospital/Clinic

INDUSTRIAL USE TYPES

Contractor's Yard*

Convenience Center*

Custom Manufacturing*

MISCELLANEOUS USE TYPES

Communication Tower*

- C. The following uses are allowed only by conditional use permit from the board of supervisors pursuant to section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

RESIDENTIAL USES

Dwelling, Multifamily Conversion*

Manufactured Home Park*

Manufactured Home Subdivision*

CIVIC USE TYPES

Child Care Institution

Correctional Facility

Crisis Center

Educational Facility

Halfway House

Nursing Home

Rehabilitation Service

Utility Service/Major*

[Battery Energy Storage System*](#)

COMMERCIAL USE TYPES

Auction Establishment

Bed and Breakfast*

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Camp*
Campground*
Commercial Outdoor Recreation
Kennel, Commercial
Livestock Auction Market*
Lumber Yard
Marina
Motor Vehicle Repair Service/Minor
Motor Vehicle Repair Service/Major

INDUSTRIAL USE TYPES

Landfill*
Mining*
Power Plant
Scrap and Salvage Service*
Transfer Station

MISCELLANEOUS USE TYPES

Alternate Discharge Sewage System*
Aviation Facility, Commercial*
Aviation Facility, Private*
Reconstructed Wetland*
Shooting Range, Outdoor*

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3-900. M-1 General Industrial District

Sec. 3-901. Purpose of the district.

This district is intended to provide an environment suitable for industrial activities that do not create appreciable nuisances, hazards or threats to the natural environment or surrounding development. Uses that would typically be found in this district include a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access to highways and providing a controlled environment within which uses are to be conducted in completely enclosed buildings. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other

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uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

Sec. 3-902. Permitted uses.

- A. The following uses are permitted by right subject to all other applicable requirements contained in this ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

AGRICULTURAL USES

Agriculture
Silvicultural activities

CIVIC USE TYPES

Park and Ride Facility
Parks and Recreation
Post Office
Public Maintenance Facility
Utility Service/Minor

COMMERCIAL USE TYPES

Auction Establishment
Bank
Business Support Service
Business or Trade School
Construction Office, Temporary
Equipment Sales and Rental
General Service and Repair
Mini Warehouse
Motor Vehicle/Outdoor Storage
Motor Vehicle Repair Service/Major
Office, General
Taxidermy
Truck Stop

INDUSTRIAL USE TYPES

Contractor's Yard
Convenience Center
Custom Manufacturing

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Industry, Type I
Laboratory
Warehousing and Distribution

MISCELLANEOUS USE TYPES

Parking Facility
Reconstructed Wetland
Windmill*

- B. The following uses are allowed only by special exception from the board of zoning appeals pursuant to section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

RESIDENTIAL USES

Accessory Apartment

CIVIC USE TYPES

Day Care Center

MISCELLANEOUS USE TYPES

Communication Tower

- C. The following uses are allowed only by conditional use permit from the board of supervisors pursuant to section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

CIVIC USE TYPES

[Battery Energy Storage System*](#)

Utility Service/Major

Community-Scale Solar Energy Facility*

Utility-Scale Solar Energy Facility*

COMMERCIAL USE TYPES

Convenience Store

Lumber Yard

INDUSTRIAL USE TYPES

Industry, Type II

Recycling Center

Transfer Station

MISCELLANEOUS USE TYPES

Alternate Discharge Sewage System

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3-1000. M-2 General Industrial District

Sec. 3-1001. Purpose of the district.

The purpose of this district is to provide for a wide variety of industrial operations, but to restrict or prohibit those industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district. Certain potentially hazardous industries are permitted only after public hearings and review to assure protection of the public interest and surrounding property and persons. It is the intention of the district to preserve the land in the district for industrial use and to exclude new residential or commercial development except for certain uses determined to be supportive of industrial operations.

Sec. 3-1002. Permitted uses.

- A. The following uses are permitted by right subject to all other applicable requirements contained in this ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

AGRICULTURAL USES

Agriculture
Silvicultural activities

RESIDENTIAL USES

Accessory Apartment

CIVIC USE TYPES

Day Care Center
Park and Ride Facility
Post Office
Public Maintenance Facility
Public Facility
Public Park and Recreational Area
Utility Service/Minor

COMMERCIAL USE TYPES

Adult Entertainment Establishment
Agricultural Service
Auction Establishment
Bank

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Business Support Service
Business or Trade School
Construction Office, Temporary
Crematorium
General Service and Repair
Laundry
Livestock Auction Market
Office, General
Truck Stop

INDUSTRIAL USE TYPES

Convenience Center
Industry, Type I
Industry, Type II
Laboratory
Recycling Center
Scrap and Salvage Service
Transfer Station
Warehousing and Distribution

MISCELLANEOUS USE TYPES

Parking Facility
Reconstructed Wetland
Windmill*

- B. The following uses are allowed only by special exception from the board of zoning appeals pursuant to section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

CIVIC USE TYPES

Day Care Center

MISCELLANEOUS USE TYPES

Communication Tower

- C. The following uses are allowed only by conditional use permit from the board of supervisors pursuant to section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in article IV, Use and design standards, for those specific uses.

CIVIC USE TYPES

Battery Energy Storage System*

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Utility Service/Major
Community-Scale Solar Energy Facility*
Utility-Scale Solar Energy Facility*

COMMERCIAL USE TYPES

Convenience Store

INDUSTRIAL USE TYPES

Asphalt Plant
Industry, Type III
Landfill
Meat Packing
Power Plant

MISCELLANEOUS USE TYPES

Alternate Discharge Sewage System

(Ord. No. 2016-02, 8-4-2016)

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ARTICLE IV. – SUPPLEMENTARY REGULATIONS

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4-200. – Supplementary Use Regulations Generally

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Sec. 4-204. Accessory uses.

- A. The district regulations classify different principal uses according to their different impacts. Whenever a residential, civic, office, commercial, industrial, or miscellaneous activity (which may or may not be separately listed as a principal use) is conducted in conjunction with another principal use and that activity constitutes only an incidental or insubstantial part of the total use that takes place on a lot, then the activity shall be regarded as accessory to the principal use and shall be carried on in accordance with the permit issued for the principal use.

For purpose of interpreting this section;

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1. A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use.
2. An accessory use does not have to be connected with a principle use. However, their association must take place with sufficient frequency that there is common acceptance of their relatedness.
3. Portable on demand storage (POD) units shall be considered a temporary structure. They are permitted for use for a total of six months, after which a zoning permit must be obtained through the planning and zoning department.
4. Distributed solar energy facility shall be considered an accessory use to be used to meet energy demands on-site and include rooftop and groundmounted photovoltaic arrays on residential, commercial, and industrial properties. Roof-mounted or ground-mounted solar collectors shall not exceed the square footage of the principal structure or use and shall meet the following requirements:
 - a. Solar collectors shall be configured to avoid glare and heat transference to adjacent properties.
 - b. Ground-mounted solar collectors shall not be located within ten feet of any side or rear lot line.
 - c. Ground-mounted solar collectors located within a front yard shall meet the minimum setback required for the principal structure or use in the applicable zoning district where located and shall be sited as far back as the principal structure or use.
 - d. The maximum height of a ground-mounted solar collector shall be 15 feet as measured from the grade or base of the collector to its highest point and shall not exceed the height of the principal structure or use.
 - e. Roof-mounted solar collectors shall not extend beyond the exterior perimeter of the building or structure on which mounted or built and shall not exceed the maximum height for the applicable zoning district where the building or structure is located.
5. Battery energy storage systems shall be considered an accessory use in residential, civic, commercial, and industrial uses and properties in any zoning district when designed with appropriate storage capacity to serve the principal use only and not the electric power grid. All battery energy storage systems, all dedicated-use buildings, and all other buildings or structures that contain or are otherwise associated with a battery energy storage system shall be designed, erected, and installed in accordance with all applicable provisions of the codes, regulations, and industry standards as referenced in the Virginia Uniform Statewide Building Code, the Virginia Energy Conservation Code, and the Code of the County of Surry.

Commented [A4]: This section will exempt homeowners, businesses, or industrial users who want battery storage only for their own personal use (and not to send energy back to the grid) from the BESS ordinance.

4-600. Supplementary Regulations for Civic Uses

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Sec. 4-609. Battery Energy Storage Systems

Additional requirements and standards for battery energy storage systems permitted as a principle use. These requirements and standards also apply to electrochemical Energy Storage Facilities, as defined in Sec. 3-1108 of this Ordinance, that are located in an Emerging Technology Zoning District.

A. Application Requirements. Each application for a conditional use permit for a battery energy storage system shall include the following general information:

1. Project Description. A narrative identifying the applicant, owner, and operator, and describing the proposed battery energy storage system, including an overview of the project, its location, and a maintenance plan for the project; the approximate rated capacity of the battery energy storage system; and a description of ancillary facilities.
2. Concept Development Plan. The concept development plan shall include the following information:
 - i. Existing and proposed buildings and structures, including preliminary location(s) of all proposed equipment;
 - ii. Existing and proposed access roads, drives, turnout locations, and parking;
 - iii. Location of any substations, electrical cabling, ancillary equipment, buildings, and structures (including those within any applicable setbacks);
 - iv. A draft emergency action plan;
 - v. Fencing or other methods of ensuring public safety; and
 - vi. The location and nature of proposed buffers and screening elements, including vegetative and constructed buffers.
3. Technical Review/Fees. Applications for battery energy storage systems may require a technical review prior to site plan approval that will be conducted by a consultant selected by the county. Any fees associated with performance of this review will be paid by the applicant.
4. Additional Considerations. ~~Additional information may be required, as determined by the planning director, such as~~ Applications shall include a historic resource impact analysis, an environmental resource impact analysis, a traffic impact analysis, a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project, a landscaping and screening plan, a coverage map, or other additional information that may be necessary for a technical review of the proposal as determined by the planning director.

B. Community Meeting Requirement. The applicant shall hold a public community meeting prior to the Planning Commission's public hearing to give the community an opportunity to hear from the applicant and ask questions regarding the proposed facility under the following guidelines:

- i. The applicant shall inform the planning director and adjacent property owners in writing of the date, time and location of the meeting, at least seven but no more than 14 days in advance of the meeting.
- ii. The meeting shall take place within the county, at a location open to the public with adequate parking and seating facilities that will accommodate persons with disabilities.

Commented [A5]: The BESS ordinance was designed to mimic the recently adopted solar ordinance. It is similar in form and intent.

Commented [A6]: BESS facilities in the Emerging Technology Zoning District must conform to these standards. The ET District is specific to extremely large industrial development (greater than 500 acres).

Commented [A7]: Application requirements similar to solar application requirements.

Commented [A8]: Modified to require these items studies, as suggested by Planning Commission.

Commented [A9]: Confirmed this matches the solar ordinance notice regime.

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- iii. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant and provide feedback.
- iv. The applicant shall provide to the planning director a summary of any input received from members of the public at the meeting any responses.
- v. The requirements of this section shall be deemed complete if the applicant chooses to fulfill the public participation requirements described in Virginia Administrative Code Section 9VAC15-100-90 related to an application for permit by rule for small energy storage facilities and holds the required public meeting within sixty (60) days of the Planning Commission's initial public hearing, provided that the applicant also informs the planning director and adjacent property owners in writing of the date, time and location of the meeting, at least seven but no more than 14 days in advance of the meeting.

C. Performance Requirements. All battery energy storage systems shall comply with the criteria:

1. **Operation.** Battery energy storage systems shall be constructed, maintained, and operated in accordance with national industry standards and regulations, including the most current adopted edition of the National Electrical Code, International Fire Code of the International Code Council, and the National Fire Protection Association Fire Code. The batteries shall be National Fire Protection Agency (NFPA) compliant. In the event of a conflict between the national industry standards and these conditions, the national industry standards shall control so that as technology advances, updated technology may be used.
2. **Configuration.** Battery cells shall be placed in a battery energy storage system container or similar modular assembly with a battery management system. The battery energy storage system shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire safety systems. The facility shall have 24/7 automated fire detection. Each battery energy storage system shall include fire mitigation technology to prevent the demonstrated passive mitigations against spread of fire among containers or assemblies and shall not require the actions of personnel to suppress or otherwise engage a thermal event or fire. If such a design is not available, each container or assembly shall include built-in fire suppression technology intended to mitigate the risk of spread of fire among containers or assemblies. To the extent required by NFPA 855, the battery management system shall monitor individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and be able to shut down and alarm in response to an unsafe condition.
3. **Safety Operation Standards.**
 - i. Each battery energy storage system shall install and maintain fire safety systems such as an automatic fire alarm/detection system and/or extinguishing technology built in based on specific hazards, as approved by the County Fire Official, under the direction of NFPA 855 standards, as amended, and the Virginia Statewide Fire Prevention Code. Active fire extinguishing technology may not be required if it can be shown that the battery energy storage system meets all applicable code requirements including NFPA 855 and subject to the approval of the County Fire Official.
 - ii. To the extent required by NFPA 855, the battery management system shall include 24/7 monitoring for individual battery module voltages and temperatures, container

Commented [A10]: Added to allow for consolidation of community meeting requirements if applicant chooses to combine PBR public meeting requirements with county's. PBR requirements are more stringent than county requirements (i.e. newspaper advertisements, multiple notices, etc.).

Commented [A11]: Requires conformity with National Fire Protection Association's latest standards (these more stringent than current state-adopted standards).

Commented [A12]: Modified to clarify that all BESS will include fire prevention technology.

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temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access.

iii. The battery management system shall be capable of shutting down and issuing an alarm in response to an unsafe condition.

4. Warning Signage. NFPA 704 placards shall be placed on the entry to the facility and as appropriate on individual containers and building facility entrances along with emergency contact information.

5. Emergency Access. Access to the property for Surry County Fire and EMS shall be provided in a manner acceptable to the Surry County Chief of Emergency Management and/or the Fire Marshal.

6. Setbacks. Battery energy storage systems shall comply with the following minimum setback requirements:

i. In the A-R District:

1. Be located at least 200 feet from all property lines, unless the adjacent parcel is zoned industrial, has an electric substation to which the battery energy storage system will connect and is located on the same side of the road, or is an adjacent parcel owned or leased by the battery energy storage system's owner or operator.

2. Be located 500 feet from all residential and commercial structures.

4.3. These setbacks may be increased as necessary to address sensitive adjacent uses by specific terms of the Conditional Use Permit.

ii. In the M-1 and M-2 District:

1. Be located a minimum of at least 75 feet from all property lines and otherwise comply with all minimum height, bulk, setback, and yard requirements of the underlying district.

2. These setback may be increased as necessary to address sensitive adjacent uses by specific terms of the Conditional Use Permit.

7. Screening/Landscaping Buffers.

i. Battery energy storage systems located in the A-R district shall be fully screened on all sides from ground-level view by a vegetative buffer of at least 100 feet located within the required setbacks, except for facilities located within or adjacent to parcels zoned industrial, or adjacent to a parcel with an electric substation located on the same side of the road.

ii. Battery energy storage systems located in the M-1 or M-2 shall conform to the screening and buffering requirements of the underlying district.

ii. Areas within 20 feet on each side of battery energy storage system shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

Commented [A13]: Accepted adding signage to the entry of the facility and individual containers.

Commented [A14]: Requires coordination with county Fire and EMS.

Commented [A15]: Clarifies different buffers for BESS in A-R district vs industrial districts.

Commented [A16]: Takes into account new solar setbacks. BESS facilities are smaller and have reduced visual impact, but this ordinance still requires significant setbacks similar to solar.

Commented [A17]: Grants additional flexibility for setbacks in CUP conditions

Commented [A18]: For BESS located in industrial areas, there are reduced setbacks.

Commented [A19]: Sets a higher minimum setback than underlying industrial district requirements.

Commented [A20]: Grants additional flexibility for setbacks in CUP conditions

Commented [A21]: Clarifies A-R district vs M-1/M-2 district buffer requirements. A-R requires 100 ft landscaped buffer included within setbacks.

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iii. A minimum 20 foot buffer shall be established around the perimeter of the battery energy storage system's fenceline and such buffer shall be cleared of combustible vegetation and other combustible growth. The buffer must also be covered in gravel, concrete, or some other non-combustible material to provide for additional fire protection.

iv. All screening and landscaping shall be in accordance with Article V, General Design Guidelines and Development Review Procedures, of this Ordinance.

8. Fencing. Battery energy storage systems shall be enclosed by a security fence at least eight (8) feet in height or other greater height as required by applicable codes or design requirements of the operating entity.

9. Noise. The average noise generated from the battery energy storage systems, components, and associated ancillary equipment at any time shall not exceed a noise level of 72 dBA as measured from the property line of an adjoining parcel and shall not exceed 55dBA at the outer wall of any occupied structure on an adjacent parcel in the AR district in existence at the time the project receives its Conditional Use Permit.

i. Noise Study. Prior to site plan approval, at the discretion of the planning director or building official, or as required by the conditions of its permit, the applicant may the applicant shall be required to provide a noise study, which shall include equipment and component manufacturers' noise ratings and operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system and at the boundaries of the property in order to demonstrate compliance with this standard.

ii. If, prior to site plan approval, but subsequent to approval of the concept development plan by the Board of Supervisors, modifications to the concept development plan and/or associated permit conditions are required to be in compliance with noise standards, the planning director shall have the authority to permit minor structural additions or modifications to the concept development plan so long as such additions or modifications are limited to addressing noise levels.

10. Signage. No advertising of any type may be placed on a battery energy storage system or related facility, except that a sign shall be required displaying the name, registration number, and emergency contact number of the facility owner. The sign shall not exceed four (4) square feet in size and shall be located on the security fence or other approved location.

11. Lighting. Lighting of any battery energy storage system shall be limited to that minimally required for safety and operational purposes and all lighting shall be exclusively motion-sensor activated. All lighting must be in compliance with the International Dark-Sky Association's (IDA) guidelines and all lighting equipment shall have received third-party certification by the IDA's DarkSky Approved program. A lighting plan detailing compliance with these requirements shall be submitted prior to site plan approval.

12. Height. Battery energy storage systems shall not exceed a height of 30 ft, except for structures associated with interconnection to the electrical grid.

Commented [A22]: Consolidated section and clarified based on Planning Commission feedback.

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Commented [A23]: Creates minimum fence height.

Commented [A24]: Proactively creates decibel maximum.

Commented [A25]: Decreased from 72 dBA to 65 dBA at the property line and added additional protection for adjacent occupied structures.

Commented [A26]: Named this section "Noise Study" and added it as a requirement, along with additional notation of the methods of modeling of the study.

Commented [A27]: Gives planning director authority to make minor modifications to allow for noise compliance (don't need to go back and update CUP).

Commented [A28]: Added Dark Sky compliant requirement, motion sensor activated and lighting plan to be submitted with site plan approval.

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D. Emergency Response Plan. Prior to final site plan approval, an Emergency Response Plan shall be developed in coordination with the Surry County Chief of Emergency Management and/or the Fire Marshal and shall include:

- i. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions;
- ii. Procedures for inspection and testing of associated alarms, interlocks, and controls;
- iii. Procedures to be followed in response to notifications from the battery energy storage system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure;
- iv. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures may include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire;
- v. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required;
- vi. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility;
- vii. A water containment plan;
- viii. Other procedures as determined necessary by the city to provide for the safety of occupants, neighboring properties, and emergency responders; and
- ix. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

E. Transportation and Traffic Control Plan. Prior to site plan approval, the applicant or project owner shall prepare and submit such a plan to the Virginia Department of Transportation (VDOT) and the county for review and approval. Such plan shall address the following:

- i. Directing employee traffic and delivery traffic to specific roadways to access the property to minimize conflicts with local traffic patterns;
- ii. Lane closures, flagging procedures, directional and informational signage;
- iii. Designated routes for employees, deliveries or equipment and materials on secondary roads to the property;
- iv. Designated delivery and parking areas;
- v. Dust control and mitigation, using water trucks, mulch, or similar methods;
- vi. Measures necessary to prevent deposits of soil and mud onto adjacent roads from construction-related traffic; and

Commented [A29]: Detailed Emergency Response Plan required in coordination with county EMS prior to site plan approval.

Commented [A30]: Same traffic plan requirements as solar facilities.

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vii. A pre-and post-construction road evaluation, an any necessary repairs to the public or private roads damaged by the project. If a traffic issue arises during the construction of the project, the applicant or project owner shall develop, with the input from the county and VDOT, a complete appropriate measures to mitigate the issue.

F. Bonding Requirements. The Board of Supervisors may require a bond or letter of credit in an amount and with surety satisfactory to the department of planning, securing to the county compliance with the conditions and limitations set forth in the conditional use permit.

G. Remediation. The battery energy storage system operator or owner shall be responsible for any environmental remediation required by the county or the state and the costs of such remediation. All remediation shall be completed in a timely manner.

H. Decommissioning. Decommission means the removal and proper disposal of equipment, facilities, or devices related to a battery energy storage system. Decommissioning shall be implemented upon abandonment and/or in conjunction with removal from the facility due to the end of its useful life which results in a permanent ceasing of operations. The disposal of battery components in any of the county's landfill facilities is prohibited.

1. Decommissioning Plan. The applicant shall submit a decommissioning plan prior to site plan approval. The decommissioning plan shall include:

- i. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
- ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- iii. The anticipated life of the battery energy storage system;
- iv. The estimated decommissioning costs and how said estimate was determined;
- v. The method of ensuring that funds will be available for decommissioning and restoration;
- vi. The method by which the decommissioning cost will be kept current;
- vii. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
- viii. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

2. Decommissioning Agreement. As a condition of the approval of a site plan for a battery energy storage system, the owner, lessee, or developer of the project shall enter into a written project development agreement with the county, setting forth, at a minimum that:

Commented [A31]: Bonding, Remediation, and Decommissioning are all the same requirements for BESS as for solar.

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- i. If the facility ceases to generate electricity for more than 6 consecutive months, unless due to an act of God, the responsible party will provide for its decommissioning.
- ii. If the owner, lessee, or developer defaults in the obligation to decommission the facility, the county has the right to enter the real property without further need of consent of the owner to engage in decommissioning.
- iii. The owner and/or operator of the energy storage system shall provide surety in the in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee as approved by the County Attorney, for the removal of the battery energy storage system, for the period of the life of the facility. All costs of the financial security shall be borne by the owner and/or operator.
- iv. The amount of the financial assurance based upon an estimate by a professional engineer licensed in the Commonwealth, engaged for and paid by the responsible party, who has experience in preparing decommissioning estimates, and approved by the County.
- v. The amount of the surety required shall be 100% of the estimated decommissioning costs plus 20% in administrative fees. ~~Any solar panels, steel, aluminum, copper, fence posts, fencing, or other~~ all components and material removed from the facility as part of decommissioning shall be taken out of Surry County by the owner, lessee, or developer. ~~None of The estimated salvage value of any of this material~~ the energy storage system components may be used to offset the decommissioning costs.
- vi. All references within the conditional use permitting and site development requirements, where the term "construction" is used, shall also mean "deconstruction" and "decommissioning" and vice-versa.

3. Physical Decommissioning. The decommission process shall occur within 6 months after the battery energy storage system permanently ceases operation. The decommissioning process shall conform to the Decommissioning Plan and shall include the reasonable restoration of the real property, to include:

- i. The removal from the surface of the property, any project facilities and appurtenances installed or constructed thereupon, including permanent foundations shall be completed both above and below ground. For facilities located in an M-1 or M-2 district, foundations shall be permitted to remain.
- ii. The filling in and compacting of all trenches or other borings or excavations made in association with the project, the removal of all debris caused by the project from the surface of the property, soil stabilization of the project site, and revegetation of the ground cover of the real property disturbed by the removal of such equipment, facilities, or devices.
- iii. For facilities located in the A-R district, at the completion of decommissioning, the properties shall be returned to a state in which agricultural or forestal use may continue in order to preserve and protect the county's rural and agricultural character.

4. Decommission Review. Upon completion of decommissioning, the project owner or operator shall provide to the planning director a report detailing compliance with all of conditional use permit and ordinance requirements required for decommissioning as well as perform and provide a phase II

Commented [A33]: Modified to address salvage value.

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environmental site assessment report of the site to the County. County staff will review the provided decommissioning report for approval or denial. If denied, a list of corrective actions will be provided to the project owner or operator.

- I. Modification. The Board of Supervisors may, in its sole discretion, by conditional use permit, waive or modify requirements set out in this article for battery energy storage systems, based on unique site conditions, if it finds that such waiver or modification promotes good land use planning and is compatible with surrounding land uses, and as long as the project still otherwise complies with applicable state law and local ordinances.

Commented [A36]: Allows BoS to modify or waive any requirements at their discretion.

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