

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 30 (“LAND USE AND DEVELOPMENT REGULATIONS”) IN ORDER TO ADOPT A PORTION OF THE COMPREHENSIVE REWRITE PERTAINING TO SOLAR USES FOLLOWING THE MASTER PLAN LAND USE ELEMENT ADOPTION

WHEREAS, the City of Millville engaged the New Jersey Department of Community Affairs Local Planning Services (LPS) on March 1, 2016 by Resolution R92-2016 to update the current Land Use Plan Element of the City’s Master Plan to address the City’s current goals and objectives; and

WHEREAS, the Resolution established a working committee including representatives from the Commission, the Planning Board and Planning Department; and

WHEREAS, the LPS and Working Committee hosted public focus groups to assist in the development of goals and recommendations for the Land Use Plan Element as was attended by the business community, property owners, non-profit organizations, City representatives and interested residents; and

WHEREAS, the goals and recommendations including those from the public focus group were incorporated into a plan entitled City of Millville Land Use Plan Element dated January 2017 and adopted by the City Planning Board on January 9, 2017 following procedures for preparation and notification provided for in Municipal Land Use Law 40:55D-1 et seq.; and

WHEREAS, the City Commission introduced a comprehensive rewrite of Chapter 30 Land Use and Development Regulations to implement the zoning ordinance recommendations Resolution on first reading at a regularly scheduled meeting on January 21, 2020 and referred it to the Planning Board for review of consistency with the master plan; and

WHEREAS, the Planning Board held a public hearing at a regularly scheduled meeting on February 10, 2020 and with extensive input from the public and discussion recommended via Resolution 04-2020 substantial revisions to Chapter 30 of the Zoning Code before adoption; and

WHEREAS, in an effort to continue development and government operations during the COVID-19 crisis, the City Commission is desirous to enact a portion of the proposed Chapter 30 rewrite that was not subject of concern during previous public hearings; and

NOW, THEREFORE, BE IT ORDAINED, by the City Commission that Chapter 30 Land Use and Development Regulations shall be amended to add the following language

Add 30.221 Utility Scale (Principal Use) Solar Energy Facility

Within the Zoning Districts

AC Agricultural Conservation District

DR Downtown Riverfront District

LC Land Conservation District

POS Public Open Space District

RC River Conservation District

I-1 General Industry District

I-2 Interchange Mixed Use District

I-3 Air Park Industry District

public utility generating sub or switching stations may be established in accordance with the provisions of the Schedules of District Regulations and the following conditions:

a. Definitions

- i. COLLECTOR SURFACE – Any part of a solar collector that absorbs solar energy for use in the collector’s energy transformation process. “Collector surface” does not include frames, support and mounting hardware.
- ii. PRESERVED OPEN SPACE AND PRESERVED FARMLAND – Land on which a development easement was conveyed to, or retained by, the State Agricultural Development Committee, a board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 or N.J.S.A. 4:1C-31, section 5 of N.J.S.A. 4:1C-31.1, section 1 of N.J.S.A. 4:1C-38, section 1 of N.J.S.A. 4:1C-43.1, section 37 through 40 of N.J.S.A. 13:8C-37 through 13:8C-40, or any other State law enacted for farmland preservation purposes.
- iii. RENEWABLE ENERGY FACILITY – A facility that engages in the production of electric energy from solar technologies, photovoltaic technologies, or other solar-based technology.
- iv. SOLAR COLLECTOR – A device, structure or part of a device or structure in which a substantial purpose is used to transform solar energy into thermal, mechanical, chemical or electrical energy.
- v. SOLAR ENERGY – Direct radiant energy received from the sun.
- vi. SOLAR PANEL – A structure containing one or more receptive cells or collector devices, the purpose of which is to use solar radiation to create usable electrical energy.
- vii. UTILITY SCALE [PRINCIPAL USE] SOLAR ENERGY SYSTEM – One or more solar panels and all associated equipment involved in the conversion of solar radiation to electrical energy which functions as the only principal use on the land on which such system is situated.

b. Utility Scale Solar Energy System

- i. Where permitted as set forth in the Schedule of District Regulations, solar energy systems shall be a permitted as conditional uses on a minimum lot size of 200 acres (lot area includes all land associated with the overall development of the utility scale solar project).
- ii. The Utility Scale Solar System shall constitute the principal use of the lot on which it is located. For all such systems major site plan approval is required.
- iii. A person who owns a preserved farmland may construct, install and operate solar energy systems

on an area less than the ten acre minimum for such a use on the preserved portions of the farm or on any portion excluded from preservation in accordance with P.L. 2009, c. 213 of New Jersey.

- iv. A site plan application for a solar energy system shall address, and not be limited to, buffering, care and maintenance of all property associated with the installation, security, visual impacts, drainage, traffic to and from the site and shall include. Installations shall be subject to the following requirements, in addition to applicable development application submission, review and performance standards:
- a) All solar facilities must meet or exceed the standards and regulations of the Federal Aviation Administration (FAA), Board of Public Utilities (BPU), and any other agency of the local, state, or federal government with the authority to regulate such facilities that are in force at the time of the application.
 - b) The location of ground mounted arrays and freestanding collectors shall be setback a distance of seventy-five (75) feet from all property lines.
 - c) Ground mounted arrays shall not exceed twenty (20) feet in height when oriented at maximum tilt.
 - d) A thirty (30) foot wide perimeter landscaped buffer that includes a combination of evergreen trees and shrubs-The landscape buffer shall be required along the road frontages and where visual impact may affect immediately adjacent residential uses. The purpose of the buffer is not to completely screen the solar use, but rather to provide an aesthetic component to the project . A six (6) foot tall fence shall be located inside the landscape perimeter. Evergreen trees shall not be a lesser height than that of the perimeter fence, and shall be of a species that will be expected to grow to a height of the solar panels within 5 years of the time of planting. Natural vegetation or landforms on site may provide such screening as determined by the Board.
 - e) No more than eighty percent (80%) of “under panel” surface of the total lot area shall be utilized for a solar energy system installation, inclusive of 25% maximum impervious coverage exclusive of the panel areas as prescribed by N.J.A.C. 40:55D-38.1.
- v. A site plan application submission shall include:
- a) Visual Impact Analysis: Discuss the potential visual effects from the projects. Identify any measures to avoid, minimize, or mitigate visual effects.
 - b) An economic impact and alternative site analysis.
 - c) Proposed storm-water measures: Identify specific erosion control, sedimentation control or stabilization measures to address soil limitations during and after project construction.
 - d) Screening Plan: Include any site grading and/or landscape plantings proposed along public roads or abutting residential and commercial properties.
 - e) A Maintenance Plan for grounds and landscaping buffers.
 - f) A site plan application shall also include a Decommissioning Plan including time line.

means and methods with engineering and demolition specifics as well as a plan for cleaning and restoration of the property to its pre-installed condition, including grading and vegetative re-stabilization to eliminate any negative impacts to surrounding properties.

- vi. To the extent reasonably possible, solar energy panels, regardless of how they are mounted, shall be oriented and/or screened year round so that glare is directed away from adjoining properties and streets.
 - vii. To the extent reasonably possible, solar energy systems shall be designed using such features as colors, materials, textures, screening and landscaping so as to blend into their settings and avoid visual blight. The solar energy systems shall remain painted or finished in the color or finish that was originally applied by the manufacturer. The exterior surface of any visible components shall be non-reflective, neutral color like white, grey or another non-obtrusive color. Finishes shall be matter or non-reflective.
 - viii. Solar energy systems shall not be used for the display of advertising.
 - ix. All solar energy system collector installations must be performed by a qualified solar installer, and prior to operation the electrical connections must be inspected by the Construction Office or other appropriate electrical inspection agency as determined by the City. In addition, any interconnection to the public utility grid must be inspected by the appropriate public utility.
 - x. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure meeting the requirements of the New Jersey State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the State of New Jersey and other applicable laws and regulations.
 - xi. Clearing of natural vegetation for the installation of a solar energy system shall be limited to that which is necessary for the construction, operation and maintenance of the system and as otherwise prescribed by of §30-184 as well as any other applicable laws, regulations and ordinances.
 - xii. Any trees to be removed to accommodate the installation of a solar energy system shall be accompanied by a plan demonstrating the need to remove the trees. Any applicant shall locate a solar energy system so that tree removal is not required to the extent practical.
 - xiii. Any ancillary buildings and any outside storage associated with a solar energy system shall use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
 - xiv. Buffer widths shall meet the requirements of an industrial use to neighboring properties as shown in the 030d Required Minimum Buffer Width Table at the beginning of this Chapter and it shall meet all the screening requirements of §30-155.
- c. Decommissioning of Utility Scale Solar and Wind Energy Systems
- i. The Facility Owner and Operator shall, at its expense, complete decommissioning of the Utility Scale Solar or Wind (including individual wind turbines) System, and all related improvements.

within (12) twelve months after the end of the useful life of the facility or individual wind turbines, or when use has been discontinued or abandoned by the facility owner and/or operator. The Utility Scale Solar or Wind (including individual wind turbines) System will be presumed to be at the end of its useful life, discontinued or abandoned if no electricity is generated for a continuous period of twelve (12) months.

- ii. Decommissioning shall include all the following relevant parts of the system including removal of the solar panels and support apparatus, both above and below ground, wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
- iii. Disturbed earth shall be graded, re-seeded and/or reforested to reclaim the site back to its predevelopment condition, based on the subdivision/land development plan or documented predevelopment condition, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- iv. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). Said estimates shall be submitted to the City of Millville after the first year of operation and every fifth year thereafter.
- v. Decommissioning Funds
 - a. The Facility Owner or Operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than one hundred percent (100%) of Decommissioning Costs.
 - b. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the Facility Owner or Operator and participating land owner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within New Jersey and is approved by the City.
 - c. Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to [municipality].
- vi. If the Facility Owner or Operator fails to complete decommissioning within the period, prescribed above, then the landowner shall have six (6) months to complete decommissioning.
- vii. If neither the Facility Owner or Operator, nor the landowner complete decommissioning within the periods described above then the City of Millville may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to Millville shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns Millville may take such action as necessary to implement the decommissioning plan.

- viii. The escrow agent shall release the Decommissioning Funds when the Facility Owner or Operator has demonstrated, and the city concurs, that decommissioning has been satisfactorily completed, or upon written approval of Millville in order to implement the decommissioning plan.

SECTION 2

Should any provision of this ordinance be deemed invalid for any reason that invalidity shall not affect the remaining provisions of the ordinance, and the provisions and sections of the ordinance are hereby declared to be severable with respect to their validity.

SECTION 3

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4

This ordinance shall take effect twenty (20) days after final passage, according to law.

Moved By:

Seconded By:

<u>VOTING</u>	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
Michael Santiago				
W. James Parent				
Ashleigh Udalovas				
Joseph Pepitone				
Bruce Cooper				

CERTIFICATION

I certify that the foregoing is a true copy of Resolution adopted by the Board of Commissioners, of the City of Millville in the County of Cumberland, at a meeting thereof held on April 7, 2020.

Jeanne M. Hitchner, City Clerk