



**Amherst County Board of Supervisors
County Ordinance No. 2025-1**

AN ORDINANCE, NO. 2025-1

Amending and enacting §§ 302 of Article III – Definitions of terms and use in this Ordinance, §§ 708 of Article VII – Use Requirements by Zoning Districts, and §§ 925 of Article IX– Special Provisions, of Appendix A – Zoning and Subdivisions Ordinance to the Code of the County of Amherst, Virginia.

Approved as to form and legality by the Amherst County Attorney

**PUBLIC HEARING: Planning Commission, August 21, 2025
FIRST READING: Board of Supervisors, September 2, 2025
PUBLIC HEARING: Board of Supervisors, September 16, 2025**

WHEREAS, the Amherst County Board of Supervisors now deems it appropriate to amend the Zoning and Subdivision Ordinance in order to make certain revisions related to the energy storage facilities.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Amherst County Board of Supervisors that the Amherst County Zoning and Subdivision Ordinance is hereby amended as follows:

302. Specific Definitions.

“Energy storage facilities” means the energy storage equipment and technology within an energy storage project that are capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

“Energy storage project” means the energy storage facilities within the fenced project site. An energy storage project is also commonly referred to as a “Battery Energy Storage System” or “BESS.”

708.- Industrial District M-1.

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708.03. Special exceptions (Industrial District—M-1 zone):

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9. Energy storage facilities as provided in Section 925.

10. Any other use which the zoning administrator determines is consistent with the statement of intent for this district and is of the same general character as special exception uses in this district.

925. – Energy Storage Facilities.

925.01 Development standards for energy storage facilities. The following provisions apply to all energy storage facilities:

1. Setbacks for energy storage facilities shall be seventy-five (75) feet from the nearest lot line of a parcel not under common ownership. The Board of Supervisors may increase this setback through the special exception process to ensure the public safety, health, and welfare of the surrounding community.
2. Energy storage facilities shall comply with generally accepted national environmental protection and product safety standards for the use of battery technologies, such as those developed for existing product certifications and standards including, but not limited to the National Fire Protection Association (NFPA) 855, Underwriters Laboratories (UL) 9540A Ed. 4-2019, and Institute of Electrical and Electronics Engineers Standard 1547. A site development plan or building permit application shall make reference to the specific safety and environmental standards complied with.
3. All energy storage facilities shall be equipped with an automatic shutdown system.
4. The provisions of this subsection may be varied or modified as part of a master plan or proffered condition.

925.02 Community meeting prior to application for energy storage facility. A public meeting shall be held prior to the public hearing with the planning commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed facility. The meeting shall be held under the following guidelines:

1. The applicant shall inform the zoning administrator and adjacent property owners in writing of the date, time, and location of the meeting, at least seven (7) but no more than fourteen (14) days in advance of the meeting.
2. The date, time, and location of the meeting shall be advertised in a newspaper of general circulation in the county by the applicant, at least seven (7) but no more than fourteen (14) days in advance of the meeting date.
3. The meeting shall be held within the county, at a location open to the general public with adequate parking and seating facilities that will accommodate persons with disabilities.
4. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.
5. The applicant shall provide to the zoning administrator a summary of any input received from members of the public at the meeting.

925.03 Application requirements for a special exception for an energy storage facility. In addition to the requirements set forth in Section 1003.03, an application for a special exception for an energy storage facility shall contain:

1. A project narrative identifying the applicant, facility owner, site owner, and operator, if known at the time of application, and describing the proposed energy storage facility , including an overview of the project and its location; the size of the site and the project area; the current use of the site; the estimated time for construction and proposed date for commencement of operations; the planned maximum rated capacity of the facility; the approximate number, representative types and expected footprint of equipment to be constructed, and how and where the electricity stored at the facility will be transmitted, including the location of the proposed electric grid interconnection.
2. A concept plan including the following information:
 - a. Property lines, minimum required setback lines, and any proposed setback lines that exceed the minimum requirements.
 - b. An area map showing the proposed site within a five-mile radius, together with prominent landmarks and physical features.
 - c. Existing and proposed buildings and structures, including preliminary location(s) of the proposed energy storage equipment.
 - d. Existing and proposed access roads, permanent entrances, temporary construction entrances, drives, turnout locations, and parking, including written confirmation from the Virginia Department of Transportation (VDOT) that all entrances satisfy applicable VDOT requirements; provided, however, these requirements shall not exceed VDOT requirements for other types of projects in the underlying zoning district.
 - e. Proposed locations and maximum heights of substations, electrical cabling from the storage systems to the substations, ancillary equipment and facilities, buildings, and structures (including those within any applicable setbacks).
 - f. Fencing or other methods of ensuring public safety.
 - g. Areas where the vegetative buffering will be installed and maintained.
 - h. Existing wetlands, woodlands, and areas containing substantial woods or vegetation.
 - i. Additional information may be required, as determined by the zoning administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed energy storage facility from potentially sensitive locations as deemed necessary by the zoning administrator to assess the visual impact of the project, aerial image or map of the site, and additional information that may be necessary for a technical review of the proposal. The planning commission or board of supervisors may also require other relevant information deemed to be necessary to evaluate the application.
3. A landscaping and screening plan that addresses the vegetative buffering required, including the use of existing and newly installed vegetation to screen the facility.
4. The following materials relating to environmental and cultural resources shall also be submitted:
 - a. A report by the Virginia Department of Historic Resources Virginia Cultural Resource Information System must be submitted to identify historical, architectural, archeological, or other cultural resources on or near the proposed facility.
 - b. A copy of the cultural resources review conducted in conjunction with the state Department of Historic Resources for the Department of Environmental

Quality permit by rule process. This report shall be in addition to the report required in subsection (a) above and shall further identify historical, architectural, archeological, or other cultural resources on or near the proposed site.

- c. A report on the potential impacts on wildlife and wildlife habitats at the site and within a two-mile radius of the proposed facility using information provided by the Department of Game and Inland Fisheries or a report prepared by a qualified third party.
 - d. Copy of any agreement between the utility, landowner, and applicant that grants permission to connect to the electrical system.
 - e. Soil testing results to be used to set a baseline for soil evaluation upon decommissioning.
5. The zoning administrator may accept an application for processing in situations in which some or all of the materials in subsection 4 are unavailable. For energy storage facilities less than one hundred and fifty (150) megawatts in size or less than 10 acres of disturbance, the zoning administrator may waive this requirement if it is reasonably expected to be waived in the Department of Environmental Quality permit-by-rule process. However, the final decision whether to act upon, grant, deny, or condition a special exception notwithstanding these materials not being included in the application lies with the board of supervisors.
6. The County may retain qualified third parties to review and inspect the permit applications and construction activities of energy storage facilities that are outside the County's areas of expertise. Any out-of-pocket costs incurred by the County for such review and or inspections by qualified third parties shall be paid by the applicant. The third-party reviewers, inspectors and their estimated costs will be submitted to the applicant for approval before the costs are incurred. The County may, in the alternative, accept such review by qualified third parties that are selected, retained, and paid by the applicant.

925.04 Development standards for energy storage facilities. The following development standards apply to all energy storage facilities:

1. Energy storage facilities shall not exceed a maximum lot coverage of 20 acres. For purposes of lot coverage, the density shall be measured by areas covered by the energy storage facilities and not auxiliary equipment.
2. Energy storage facilities shall not be located in the flood hazard overlay district as provided in section 714.
3. Energy storage facilities must comply with all applicable state and federal regulations and generally accepted national environmental protection and product safety standards, such as those developed for existing product certifications and standards including but not limited to applicable fire, electrical, and building codes adopted by the County; National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, 2023 Edition and subsequent additions; Underwriters Laboratories (UL)) 9540A Ed. 4-2019, Standard for Test Method for Evaluating Thermal Runway Fire Propagation in Battery Energy Storage Systems and subsequent editions; and Institute of Electrical and Electronics Engineers Standard 1547. A final site plan must reference the specific safety and environmental standards complied with.

4. Safety Operation Standards:

- a. The facility shall have 24/7 automated fire detection built in.
- b. The facility shall monitor battery operations to keep them within manufacturer's prescribed operating conditions.
- c. The facility shall receive approval from the County's Fire Marshall prior to operation.
- d. The facility shall have sufficient water quality protections installed, such as stormwater runoff retention systems and necessary safety plans to address potential emergency situations.

5. Warning Signage:

- a. National Fire Protection Association (NFPA) 855 signage requirements shall be utilized along signage with emergency contact information placed at the facility entrance.
6. The project area must be set back a distance of at least seventy-five (75) feet from all property lines. Exceptions may be made for adjoining parcels that are owned by the applicant. The Board of Supervisors may increase this setback through the special exception process to ensure the public safety, health, and welfare of the surrounding community.
 7. A vegetative buffer sufficient to mitigate the visual impact of the facility is required. If an opaque fence is used, there shall be single row of screening trees required. If a transparent fence is used, there shall be a double staggered row of screening trees required. This buffer should be made up of evergreen plant materials at least three (3) feet tall at the time of planting and that are reasonably expected to grow to a minimum height of eight (8) feet within three (3) years. Fencing must be installed on the interior of the buffer. The screening buffer must be maintained for the life of the facility.
 8. The project area must be enclosed by security fencing not less than seven (7) feet in height and equipped with appropriate anticleimbing device such as strands of barbed wire on top of the fence. Fencing must be installed on the interior of the vegetative buffer required so that it is screened from the ground level view of adjacent property owners. The fencing must be maintained at all times while the facility is in operation.
 9. Energy storage facilities may not exceed a height of twenty (20) feet, which shall be measured from the highest grade adjacent to each energy storage container. This limit does not apply to utility poles and the interconnection to the overhead electric utility grid that meet State Corporation Commission requirements.
 10. Lighting must be limited to the minimum reasonably necessary for security purposes and shall be designed to minimize off-site effects. Lighting on the site shall be dark sky-compliant so long as they do not conflict with applicable federal law and regulations.
 11. Applicants for new energy storage facilities shall coordinate with the county's emergency services staff to provide materials, education and training to the departments serving the property with emergency services in how to safely respond to on-site emergencies. Annual training shall be provided to all departments serving the property. The incident response plan and training, all aspects of which are paid for by

the applicant, must ensure that local responders have the necessary equipment and training to effectively handle emergencies.

12. In approving conditions on a special exception, the board of supervisors may expand, waive, or modify the requirements of this section, but it may not waive subsections 3 (spacing from other facilities) and 11 (lighting)

925.05 Considerations on issuing a special exception. The board of supervisors may impose conditions reasonably designed to mitigate the impacts of an energy storage facility where permitted only by special exception. Conditions on such a special exception may include requirements for (i) dedication of real property of substantial value to the county or one (1) of its instrumentalities or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of the special exception, so long as such conditions are reasonably related to the project. In considering any application for a special exception for an energy storage facility, the board of supervisors shall consider the following matters in addition to those otherwise provided in this Ordinance:

1. The topography of the site and the surrounding area;
2. The proximity of the site to, observability from, and impact on urban and residential areas;
3. The proximity of the site to, observability from, and impact on areas of historical, cultural, and archaeological significance;
4. The proximity of the project to other energy storage facilities, other energy generating facilities, and utility transmission lines;
5. The proximity of the site to, observability from, and impact on areas of scenic significance, such as scenic byways, vistas, and blueways;
6. The proximity of the site to, observability from, and impact on public rights-of-way, including, but not limited to, highways, secondary roads, streets, and scenic byways;
7. The proximity of the site to, observability from, and impact on recreational areas, such as parks, battlefields, trails, lakes, rivers, and creeks;
8. The preservation and protection of wildlife and pollinator habitats and corridors;
9. The proximity of the site to any urban planning area, community planning area, or environmentally or culturally sensitive area identified in the comprehensive plan;
10. The size of the site;
11. The proposed use of available technology and other measures for mitigating adverse impacts of the facility;
12. The preservation and protection of prime farmland in the county;
13. With regard to any cash payments or in-kind contributions, the impact of the project on probable future uses of the land if not developed with an energy storage facility, including any changes in future tax revenues; investments in infrastructure for other

types of development that may have occurred in the area, and would be of lesser utility; and the provisions of a siting agreement under Code of Virginia, § 15.2-2316.6 et seq., as amended; and

14. Such other matters as the board of supervisors may deem reasonably related to the application or its impacts.

925.06 Comprehensive Plan (2232) Review. The Comprehensive Plan review shall be based on the Special Exception Application Form and Concept Plan. The Code of Virginia § 15.2-2232 requires a review of public utility facility proposals by the Planning Commission to determine if their general or approximate location, character, and extent are substantially in accord with the Comprehensive Plan or part thereof.

1. The Planning Commission must consider, at a public meeting, whether the project is in substantial accord with the Comprehensive Plan. Failure of the Planning Commission to act within 60 days of a submission, unless the time is extended by the Board of Supervisors, shall be deemed approval.
 - a. If the Planning Commission approves the 2232 review, the project shall be recommended for a public hearing for the special exception permit.
 - b. If the Planning Commission does not approve the 2232 review, the applicant may appeal the decision to the Board of Supervisors within 10 days after the decision of the Planning Commission. The appeal shall be by written petition to the Board of Supervisors setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing unless the time is extended by the applicant. A majority vote of the Board of Supervisors shall overrule the Planning Commission.
2. If the Board of Supervisors agrees to negotiate a Siting Agreement in accordance with Code of Virginia § 15.2-2316.8, the 2232 review process may be delayed until negotiations are complete.
3. Approval of a Siting Agreement by the Board of Supervisors in accordance with Code of Virginia § 15.2-2316.8 shall deem the energy storage project to be substantially in accord with the County Comprehensive Plan, thereby satisfying the requirements of Va. Code § 15.2-2232.


925.07 Revenue Sharing. In accordance with the authority granted localities pursuant to Section 58.1-2636 of the Code of Virginia (1950, as amended), the county hereby assesses: (i) a revenue share of \$1,400 per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the facility based on submissions by the facility owner to the interconnecting utility, on any energy storage facility (electric energy) project; and (ii) a revenue share of \$1,400 per megawatt, as measured in alternating current (AC) storage capacity, on any energy storage system. The revenue share of \$1,400 per megawatt imposed by this section shall be increased on July 1, 2026, and every five (5) years thereafter, by ten percent (10%). The provisions of this section shall not apply to energy storage projects or energy storage systems for which an application was filed with the county, as defined by Section 58.1-3660(D) of the Code of Virginia (1950, as amended), and such application was approved by the county prior to January 1, 2021. For purposes of this section, "energy storage (electric energy) project" shall not include any project that is: (i) described in Sections 56-594, 56-594.1, or 56-594.2 of the Code of Virginia (1950, as amended) or Chapters 358 and 382 of the Acts of Assembly of 2013, as amended; or (ii) 20 megawatts or less, as measured in

alternating current (AC) generation capacity, for which an initial interconnection request for was filed with an electric utility or a regional transmission organization on or before December 31, 2018.

925.08 Decommissioning. A site plan for an energy storage facility shall include a detailed decommissioning plan that provides procedures and requirements for the removal of all part of the energy storage facility and its various structures at the end of the useful life of the facility or if it is deemed abandoned, to include remediation of any soil contamination. The plan shall include the anticipated life of the facility, the estimated overall cost of decommissioning the facility in current dollars, the methodology for determining such estimate, and the manner in which the facility will be decommissioned. The decommissioning plan and the estimated decommissioning cost will be updated upon the request of the zoning administrator or as provided by agreement, provided that the update shall be at least every five (5) years. The owner, lessee, or developer of the facility (the "responsible party") shall enter into a written development agreement with the county, setting forth, at a minimum, that (i) if the facility ceases to operate for more than twelve (12) consecutive months, the responsible party will provide for its decommissioning; (ii) if the responsible party defaults in the obligation to decommission the facility, the county has the right to enter upon the property without further notice to the responsible party to engage in decommissioning; and (iii) the responsible party provides financial assurance of such performance to the county in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee. The amount of the financial assurance shall be based upon an estimate by a professional engineer licensed in the Commonwealth of Virginia, who is engaged by the responsible party, who has experience in preparing decommissioning estimates and is approved by the county. The disposal of all equipment shall be taken to a facility that can accept the materials and shall meet all local, state and federal regulations.

§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 21st day of October 2025.



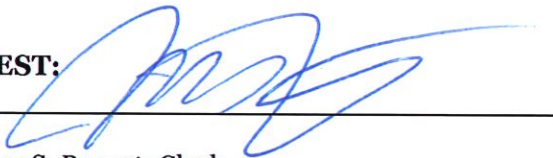
Claudia Tucker, Chair
Amherst County Board of Supervisors

Member

Vote

Claudia D. Tucker, Chair	<u>Aye</u>
Tom Martin, Vice-Chair.....	<u>Aye</u>
David W. Pugh, Jr.	<u>Aye</u>
Chris Adams	<u>Aye</u>
Drew Wade.	<u>Aye</u>

ATTEST:



Jeremy S. Bryant, Clerk
Amherst County Board of Supervisors