

Sponsor(s) : County Council  
First Reading : January 10, 2023  
Committee Referral : N/A  
Committee Consideration Date : N/A  
Committee Recommendation : N/A  
Second Reading : February 7, 2023  
Public Hearing : March 14, 2023  
Third Reading : March 14, 2023  
Effective Date : Immediately

I, Kaela Brinson, Council Clerk  
certify that this Ordinance was  
advertised for Public Hearing on  
February 23, 2023.

## **ORDINANCE NO. 23-O-01**

### **COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR COLLETON COUNTY**

**[An Ordinance to Amend Title 14-Land Management, Article 14.08-2 Zoning District Regulations and Article 14.08-4 Landscaping, Buffering and Environmental Protection, of the Colleton County Code of Ordinances.]**

#### **WHEREAS:**

1. Due to increased development activity throughout Colleton County, staff reviewed the use of Building Materials and supply as currently this use is only allowed in the RD-1 district, which is intended to be one of the most rural and protected residential districts. Staff believes this support use should be allowed in locations closer to development patterns, and has proposed that the Rural Development-2, Urban Development-1 and Light Industrial Zoning Districts be amended to allow for Building Material and Supply as a conditional use; and
2. County Council requested the review of Health Care Services, Boarding and Rooming Houses, and Residential Care Facilities under special exception. This request is designed to allow for additional oversight and public comment to these types of uses to allow for a more harmonious balance with existing neighborhoods and development patterns within this district; and
3. Due to increased large scale development opportunities, the current landscaping standards (Section 14.08-4.020(A)(l) and Section 14.08-4.020(A)(2)(h)) are not expressly defined to address these types of projects, and that special considerations should be addressed for these types of developments as the property size in question are typically significantly larger than the other zoning districts defined in the code; and
4. After review of the above issues, amendments to Title 14-Land Management of the Colleton County Code of Ordinances, Article 14.08-2 – Zoning District Regulations and Article 14.08-4 – Landscaping, Buffering and Environmental Protection were unanimously approved by the Planning Commission; and
5. There has been an increase in activity in regards to solar farm projects. The Planning Commission met on February 27, 2023 and recommended code changes to the Solar Farm Regulations.

**NOW, THEREFORE, BE IT ORDAINED BY COLLETON COUNTY COUNCIL, DULY ASSEMBLED THAT:**

**1. Title 14-Land Management of the Colleton County Code of Ordinances, Chapter 14.08-Zoning, Article 14.08-2 Zoning District Regulations is hereby amended as follows:**

**Amend 14.08-2.060 Rural Development-2.** Insert Building Materials and Supply as a conditional use under Section 14.08-2.060(B)(2).

**Amend 14.08-2.100 Urban Development-1.** Insert Building Materials and Supply as a conditional use under Section 14.08-2.100(B)(2).

**Amend 14.08-2.130. Light Industrial.** Insert Building Materials and Supply as a conditional use under Section 14.08-2.130(B)(2).

**Amend 14.04-6.040 Definitions to include:** *Building Materials and Supply:* A facility used for the storage, distribution, and sale of building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber by performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

**Amend 14.08-2.100. Urban Development-1.** Move Health Care Services from a permitted use under Section 14.08-2.100(B)(1) to special exception use under section 14.08-2.100(B)(3).

**Amend 14.08-2.100. Urban Development-1.** Move Boarding and Rooming Houses from a conditional use under Section 14.08-2.100(B)(2) to special exception use under section 14.08-2.100(B)(3).

**Amend 14.08-2.100. Urban Development-1.** Move Residential Care Facilities from a Conditional use under Section 14.08-2.100(B)(2) to special exception use under section 14.08-2.100(B)(3).

**2. Title 14-Land Management of the Colleton County Code of Ordinances, Chapter 14.08-Zoning, Article 14.08-2 Zoning District Regulations, Section 14.08-2.150(C) Solar Farm Floating Zone (ZFFZ) is hereby amended as follows:**

**C. Solar Farm Floating Zone (ZFFZ)**

1. *Purpose:* The intent of the Solar Farm Floating Zone (SFFZ) is to promote the use of solar energy as a source of electricity and facilitate the construction, installation, and operation of Solar Energy Systems (SES) in Colleton County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. The SFFZ adds an extra layer of land use regulation over the underlying zoning which adds safeguards to ensure

the proper development of facilities that generate electricity by means of solar power. This ordinance is not intended to supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to: International Building Code, International Fire Code, National Electric Code, South Carolina Department of Health and Environmental Control, and Colleton County Flood Damage Prevention Ordinance.

2. *Applicability:* A Solar Farm Floating Zone requires a zoning map amendment and requires a recommendation from the Planning Commission to County Council in accordance with 14.08-10 of the Colleton County Zoning Ordinance.
  - a. The Solar Farm Floating Zone (SFFZ) may be utilized in any zoning district except for the Resource Conservation District, provided:
  - b. The solar farm consists of a minimum of five (5) acres;
  - c. Any portion of the solar farm property boundary is within two (2) miles of an existing electrical transmission line; and
  - d. A conceptual plan which illustrates that the solar farm can meet the design and development standards set forth in Article 14.08-2.150(C)
  - e. Colleton County Council may require, at its sole discretion, a development agreement between the County and developers for properties developed as a SFFZ as a prerequisite to Development Plan Approval.

Unless a deviation from such restrictions are provided elsewhere in this Article 14.08-2.150, property within the SFFZ shall be required to adhere to all provisions of the Colleton County Zoning Ordinance and Land Development Regulations otherwise applicable within the underlying zoning district, including all subdivision plats and development plan applications.

3. *Development Standards:*
  - a. Unless otherwise addressed through private land covenants and agreements with adjacent property owners setting specific standards for setbacks, buffers, and fencing/landscaping requirements which are approved by Colleton County Council and recorded in the Colleton County Register of Deeds Office, the establishment and operation of a solar farm shall comply with the following design and development standards:

4. *Bufferyard:*

<b>Bufferyard Requirements</b>	
	<b>Existing Use of Adjacent Properties</b>

<b>Proposed Use</b>	<b>Agricultural</b>	<b>Single Family Dwelling</b>	<b>All Other Residential Uses</b>	<b>Office / Institutional</b>	<b>Commercial / Non Effluent Industry</b>	<b>Effluent Producing Industry</b>	<b>Street</b>
<b>Solar Farm</b>	<b>50'</b>	<b>*200'</b>	<b>*200'</b>	<b>50'</b>	<b>25'</b>	<b>25'</b>	<b>*100'</b>

\* Single Family Dwelling and All Other Residential Use buffers may, at the Council's discretion, be increased, or reduced with an approved berm and or landscaping and screening plan, which will screen the solar farm equipment from being seen from the exterior of the property.

\*Street buffer may, at the Council's discretion, be reduced to 50' with an approved berm and or landscaping and screening plan, which will screen the solar farm equipment from being seen from the exterior of the property; see also §14.08-2.150(c)(9)(i).

This buffer is separate and distinct from the buffering requirements of Colleton County Zoning Ordinance, Article 14.08-4 and shall be measured from the property line. Only the following activities shall be permitted within the landscaped buffer:

- a. Vehicular access drives which tie into approved access points as determined by SCDOT and/or Colleton County
- b. Landscaping and landscaping fixtures
- c. Lighting
- d. Fencing
- e. Signage
- f. Underground utility lines
- g. Overhead utility lines
- h. Drainage or stormwater detention or retention areas

5. *Landscaping and Screening Requirements:*

- a. In addition to buffering, screening shall be required by providing landscape within the buffer which achieves a minimum height of ten feet (10') within three (3) years. The intent is to provide sufficient screening, through a combination of buffers, fencing, landscaping, and/or landscaped berms to obscure the solar equipment from exterior view from adjoining property owners and public right of ways.

- b. A visually opaque screen shall be provided for any adjacent property that is zoned Residential, has an existing residential use, and/or is zoned Rural Development and has been subdivided to 5 acres or less (these are protected properties). An opaque screen is intended to exclude a visual contact with the solar equipment from any protected property, public street or public right of way. An opaque screen may be composed of a wall, fence, building, landscaping, landscaped berm, or combination thereof. Natural areas as detailed below may also be used to meet screening requirements.
- c. Natural areas: An existing vegetated area located on the same property as the solar farm; is within or includes the required buffer; and is of sufficient height, length, and depth and contains adequate and sufficient healthy vegetation to provide a visually opaque screen where required. The Director may determine that further screening improvements shall not be required.

6. *Setbacks:*

- a. The setbacks for solar equipment associated with the solar energy system shall be 25' larger than the applicable bufferyard to allow for an access road around the perimeter of the property.

7. *Fencing:*

- a. A security fence shall be required at least six feet (6') in height to secure the solar equipment unless a taller fence is needed in order to obscure the solar equipment from exterior view (see also §14.08-2.150(5)); the fence can be on top of the berm in order to achieve this goal. A chain link fence shall not be allowed unless it is screened from exterior view from adjoining property owners and public right of ways; screening may include plantings to create a "living fence", or to obscure the view of the fence. Breaks in fencing may be allowed or required by Council to facilitate wildlife needs where natural features provide appropriate barriers to access by humans for security and safety purposes.

8. *Height:*

- a. The Solar Energy System shall not exceed ten feet (10') in height, as measured from the ground to the foremost/tip end of the solar collector, provided there is a demonstration that the screening prevents the system from being visible from the exterior of the property. Ancillary non solar collector structures, such as inverters, transformers, etc., may be taller than ten feet (10') in height, provided that such are not visible from the exterior of the property.

9. *General Requirements:*

- a. Solar collectors shall be designed with anti-reflective coating to minimize glare. Mirrors are prohibited.
- b. On-site electrical interconnections and powerlines shall be installed underground to the extent feasible. Existing above ground utility lines shall be allowed to remain in their current location.

- c. A warning sign concerning voltage must be placed at the main gate that states the address of the site, the name of the solar farm operator, and a local phone number for the solar farm operator in the case of an emergency.
- d. Access to the site must be controlled by a six foot (6') wooden fence or gate if the fencing is visible from the exterior of the property. If the fencing/gate is within the interior 25% of the buffer, or is not visible from the exterior of the property, chain link gate and fencing may be used.
- e. Entrance roadway should include a dog leg or meander to obscure vision from the roadway.
- f. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.
- g. Adequate provisions to reduce average/constant noise levels at the property boundary not to exceed 50dBA at the property line, except during construction.
- h. A solar collection device or combination of devices are to be designed and located to avoid directing glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- i. Planning Commission may include special conditions in their recommendation to County Council to implement the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare set forth in Article 1 of the Colleton County Zoning Ordinance. County Council may accept, modify, reject, or add additional conditions at its sole discretion.

*10. Site Restoration/Stabilization:*

- a. Unless otherwise agreed by County Council in its concept plan or development agreement approval process, the applicant shall submit a ten percent (10%) Site Restoration/Stabilization Guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the County prior to issuance of the Development Permit. The Site Restoration/Stabilization Guarantee shall insure satisfactory grading, seeding, and stabilization of the site in case of default by the applicant and/or if the applicant does not install the required site improvements in a timely fashion as determined by the Director, including the costs of landscaping, screening, and or fencing for the site or such portion thereof being permitted. The Developer shall provide the County with an itemized engineer's estimate of the approved site improvements in conformity with Article 1.8 of the Colleton County Land Development Regulations for approval and calculation of the bond amount. The Site Restoration Guarantee may be refunded upon issuance of a Certificate of Project Close-Out for the site stabilization and improvements.

*11. Decommissioning:*

- a. Unless otherwise agreed by County Council in its concept plan or development agreement approval process, the applicant must provide a decommissioning

plan signed by the party responsible for decommissioning and the landowner (if different) that describes the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated timeline and manner in which the solar farm project will be decommissioned and the site restored to its condition prior to the development of the solar farm or such other conditions approved in the concept plan or required in a development agreement. If the property has been timbered within two (2) years of re-zoning to the SFFZ, original condition means replanted with timber. Decommissioning will be required following a continuous period of twelve (12) months in which no electricity is generated by the facility other than for mechanical, repair, replacement and/or maintenance purposes.

- i. The permit holder will have twelve (12) months to complete decommissioning of the solar farm. Decommissioning shall include removal of solar panels, foundations, structures, cabling, electrical components, conduit, and any other associated facilities as described in the decommissioning plan.
- ii. Prior to issuance of Development Permit, the applicant must provide the County with a performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the County in the amount of 125% of the estimated decommission cost minus the salvageable value, or \$50,000, whichever is greater. Estimates shall be determined by an engineer licensed to practice in South Carolina.
- iii. Every five (5) years a new engineer's estimate of probable cost of decommissioning shall be submitted for approval in the same manner as the initial submission, and the bond, letter of credit, or other financial security acceptable to the county shall be adjusted upward or downward as necessary.
- iv. Proof that the decommissioning plan has been recorded with the Colleton County Register of Deeds.

**3. Title 14-Land Management of the Colleton County Code of Ordinances, Chapter 14.08-Zoning, Article 14.08-4 Landscaping, Buffering and Environmental Protection is hereby amended as follows:**

**Amend 14.08-4.020(A)(1) Landscape, Buffering, and Environmental Protection. Remove LID and ID reference. Insert Properties located in the LID and ID district shall only comply to type A landscaping requirements for any portion of the property that is adjacent to properties zoned RS, CC, VC, UD-1, UD-2**

**Amend 14.08-4.020(A)(2)(h) Landscape, Buffering, and Environmental Protection. Remove LID and ID reference. Insert Properties located in the LID and ID district**

**shall only comply to type A landscaping requirements for any portion of the property that is adjacent to properties zoned RS, CC, VC, UD-1, UD-2.**

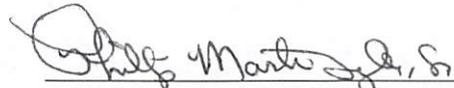
4. All provisions of other County Ordinances in conflict with this Ordinance are hereby repealed.
5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

ATTEST:

  
Kaela Brinson, Council Clerk

  
Approved as to Form  
Sean Thornton, County Attorney

SIGNED:

  
Phillip M. Taylor, Sr., Vice Chairman

COUNCIL VOTE: UNANIMOUS  
OPPOSED: