ORDINANCE

AN ORDINANCE TO ADOPT TEXT-24-022296 – A ZONING ORDINANCE TEXT AMENDMENT TO ALLOW ENERGY STORAGE FACILITIES AS A SPECIAL USE AND TO DEVELOP STANDARDS AND DEFINITIONS FOR ENERGY STORAGE FACILITIES

WHEREAS, there has been an increased interest in Energy Storage Facilities in the County as a green energy option due to the increase in technology-related uses in the community; and

WHEREAS, Energy Storage Facilities can be appropriate in certain zoning districts; and

WHEREAS, there is a desire for Energy Storage Facilities to have its own use category, standards, and definitions that represent the goals and vision of the Fauquier County Comprehensive Plan; and

WHEREAS, on May 9, 2024, the Board of Supervisors initiated this Zoning Ordinance Text Amendment; and

WHEREAS, the County has determined that the public necessity, convenience, general welfare, and good zoning practice warrant this amendment; and

WHEREAS, this amendment is in the best interest of the health, safety, and general welfare of the citizens of Fauquier County; and

WHEREAS, the Fauquier County Planning Commission held a public hearing on the proposed amendment on March 20, 2025; and

WHEREAS, on April 10, 2025, the Fauquier County Board of Supervisors conducted public hearings and considered written and oral testimony; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 10th day of April 2025, That the Board of Supervisors hereby adopts the following text amendment to Article 3, Article 5, and Article 15 of the Zoning Ordinance:

ARTICLE 3

PART 3 3-300 USES

	Site Plan	RC	RA	RR-2	V	R-1	R-2	R-3	R-4	TH	GA	MDP	C-1	C-2	C-3	CV	BP	I-1	I-2
3-320 PUBLIC UTILITIES (CATEGORY 20)																			
1. Electrical substation distribution centers and transformer stations	X	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE		SE	SE		SE	SE	SE
1.a. Battery Energy Storage System, Tier 2	X		SE														SE	SE	SE

ARTICLE 15

PART 3 15-300 DEFINITIONS

BATTERY ENERGY STORAGE SYSTEM: One or more devices, individually or assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.

Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600 kilowatt hours (kWh) and, if in a room or enclosed area, consist of only a single energy storage system technology. Tier 1 Battery Energy Storage Systems are permitted in all districts as an accessory use.

Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 kilowatt hours (kWh) or are comprised of more than one storage battery technology in a room or enclosed area.

ARTICLE 5

PART 20 5-2000 CATEGORY 20 PUBLIC UTILITIES

5-2001 Additional Submission Requirements

4. A Special Exception application for a Battery Energy Storage System project shall also include the following:

   A. A 2232 Comprehensive Plan Review shall be required prior to submission of a Special Exception for Battery Energy Storage System projects. This review by the Planning Commission shall determine if the general or approximate location, character and extent are substantially in accord with the Comprehensive Plan.

   B. In addition to the information required in Section 5-2001.1.A. and 5-011.2.3, the plat shall also include:

      a. Minimum required setback lines in the zoning district under which the project is proposed, the minimum required setbacks under this article and any proposed setbacks that exceed the minimum requirements.
      b. Existing and proposed buildings, drainfields, wells, and other structures, including preliminary location(s) of the proposed Battery Energy Storage System equipment.
      c. Existing and proposed access roads, permanent entrances, turnaround locations and parking.
      d. Proposed location of fencing and buffering.
      e. Proposed limits of clearing and grading and preliminary location of stormwater management facilities.
      f. Existing 100-year floodplain boundary, limits of wetlands, location of woodlands, areas of native vegetation and areas under existing cultivation.

g. Location of any existing historic or cultural site, scenic highway, or public facility within one mile of the project boundary.

C. An estimated construction schedule.

D. The Planning Commission or Board of Supervisors may require other relevant information deemed to be necessary to evaluate the application.

5-2002 Standards for All Category 20 Uses

5-2003 Additional Standards for Utility Scale Solar Projects

5-2004 Additional Standards for Battery Energy Storage Systems

1. The facility shall be constructed, maintained, and operated in accordance with all applicable codes 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; Underwriters Laboratories (UL) 9540A, Standard for Test Method for Evaluating Thermal Runway Fire Propagation in Battery Energy Storage Systems. In the event of a conflict between the national industry standards, the Virginia Uniform Statewide Building Code shall control.

2. Battery enclosures shall not exceed fifteen (15) feet in height measured from existing grade below the battery.

3. The following additional minimum setbacks shall apply from the project's fence or wall:
    a. 100' to the property line.
    b. 150' to any existing residential dwelling.
    c. 500' to any property with a public facility.
    d. 1,000' to a right-of-way line of a street identified as a Corridor of Statewide Significance. The setback may be modified by the Board of Supervisors upon demonstration the facility will not impact the viewshed from the identified corridor with the Special Exception application.

4. All battery enclosures shall be setback a minimum of 100' from the project's fence or wall. This area shall be maintained with gravel or another non-flammable surface. Additionally, there shall be no vegetation inside the fence or wall.

5. All property containing batteries shall be enclosed with a fence or wall not less than six (6) feet in height, topped with an appropriate anti-climbing device, and secured with gates. This shall be installed on the interior of any buffer.

6. A vegetated buffer shall be required that consists of a landscaped strip at least 50 feet wide measured from each boundary line of the project around the entire perimeter. The project shall be landscaped and maintained with a buffer of plant materials that are mature enough to effectively screen the view, to eight feet above ground level, of the batteries from adjacent properties all year around. Screening shall be fully established within five years and effectively maintained for the life of the project. Non-invasive plant species, pollinator-friendly and wildlife-friendly native plants, shrubs and trees shall be used.

7. The project shall have direct access to a major collector (or higher) as designated in the Comprehensive Plan unless the Board of Supervisors finds the amount of traffic generated by the facility is such that frontage on a public road with a lesser designation will not cause an undue impact on the neighbors or adversely affect safety or road usage.

8. All 100-year floodplains, wetlands and steep slopes shall be protected from clearing, grading, filling or construction, except as required for essential infrastructure such as road or utility crossings.

9. The layout of the facility shall be designed to avoid all identified historic, archaeological or cultural sites.

10. All newly installed utilities, including but not limited to electric, fiber, and telephone lines, serving the site shall be placed underground, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and rights-of-way.

11. A draft Emergency Response Plan shall be submitted with the first submission of the Site Plan application. The Emergency Response Plan shall be approved by the Fauquier County Fire and Rescue System at least 30 days prior to commercial operation of the facility. For Battery Energy Storage Systems, the plan shall include the following:

    a. Provision of materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.
    b. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, release of hazardous materials, and personal injuries, and for safe start-up following cessation of emergency conditions.
    c. Procedures for inspection and testing of associated alarms, interlocks, and controls.
    d. Procedures to be followed in response to notifications from the Battery Management System that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel,

and providing agreed upon notification to Fire and Rescue personnel for potentially hazardous conditions in the event of a system failure.

e. Emergency procedures to be followed in case of fire, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions.
f. Response considerations similar to a safety data sheet (SDS) that address response safety concerns and extinguishment when as SDS is not required.
g. Procedures for dealing with the Energy Storage Facility and any equipment when damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged components and equipment from the facility.
h. 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. This should include an annual retraining of the Emergency Plan, to be provided by the owner/operator of the Battery Energy Storage System.
i. Any other items as deemed necessary by the Fauquier County Fire Chief, Fire Marshal, or Emergency Manager.
j. The Emergency Response Plan shall be updated and approved annually by the Fauquier County Fire Rescue System. A copy of the updated and approved plan shall be provided to the Zoning Administrator within 30 days of approval by the Fire Rescue System.

12. Any change in ownership of the property or management/operation of the Battery Energy Storage System shall be reported to the Zoning Administrator within 30 days of the change.

13. The owner or operator of a Battery Energy Storage System facility shall completely decommission a facility within 12 months if the facility ceases to store and supply electricity for a continuous period of 12 months. The Board of Supervisors may extend this period if the owner or operator provides evidence that the failure to store and supply electricity is due to circumstances beyond their control and the facility has not been abandoned.

14. A decommissioning plan shall be submitted with the Site Plan application. Decommissioning shall include the removal of all batteries, electrical components, fencing and any other associated equipment, facilities, and structures to a depth of at least 36 inches and stabilization of the site. The plan shall include the following:

    a. The anticipated life of the project;
    b. The estimated decommissioning cost in current dollars;
    c. How said estimate was determined;
    d. The manner in which the project will be decommissioned; and
    e. A listing of any contingencies for removing an intact operational Battery Storage System from service and for removing any Battery Energy Storage System from service that has been damaged by fire or other event.

The full estimate of decommissioning shall be guaranteed by escrow at a federally insured financial institution, irrevocable letter of credit or surety bond prior to a building permit being issued. The decommissioning cost guarantee shall remain valid until the Battery Energy Storage System has been fully decommissioned. The cost estimate shall be recalculated every five (5) years and the surety increased when the recalculated estimate exceeds the guarantee amount by 10%.

15. The facility owner/operator shall notify the Zoning Administrator by certified mail of the proposed date of discontinued operations and plans for removal.