

RESOLUTION No. 2024-_____
PLANNING DIVISION NO. PRO2024-0022

**A RESOLUTION FOR APPROVAL OF TEXT AMENDMENTS TO THE MESA
COUNTY 2020 LAND DEVELOPMENT CODE (AS AMENDED)**

WHEREAS, on January 9, 2024, the Mesa County Board of County Commissioners approved a temporary moratorium on the submission, acceptance, processing, and approval of any new land use or business that engages as a commercial solar farm (the "Moratorium"); and

WHEREAS, on January 30, 2024, the Mesa County Planning Division Staff (the "Staff") presented the Project Review for Agenda Item No. PRO2024-0022 (the "Agenda Item") for review and comment at a Public Open House; and

WHEREAS, on February 7, 2024, the Mesa County Planning Division Staff (the "Staff") presented the Project Review for Agenda Item No. PRO2024-0022 (the "Agenda Item") for review and comment by the Mesa County Code Focus Group; and

WHEREAS, on February 8, 2024, the Mesa County Planning Division Staff (the "Staff") presented the Project Review for Agenda Item No. PRO2024-0022 (the "Agenda Item") for review and discussion by the Mesa County Planning Commission Workshop; and

WHEREAS, on February 28, 2024, the Mesa County Planning Division Staff (the "Staff") presented the Project Review for Agenda Item No. PRO2024-0022 (the "Agenda Item") for review and discussion at a Public Open House; and

WHEREAS, on March 21, 2024, the Mesa County Planning Division Staff (the "Staff") presented the Project Review for Agenda Item No. PRO2024-0022 (the "Agenda Item") for consideration by the Mesa County Planning Commission; and

WHEREAS, on April 11, 2024, the Mesa County Planning Division Staff (the "Staff") presented the Project Review for Agenda Item No. PRO2024-0022 (the "Agenda Item") for review and discussion at a joint meeting of the Mesa County Board of County Commissioners and the Mesa County Planning Commission Workshop; and

WHEREAS, the Public and Industry has had ample involvement in the development of the Agenda Item of the amendment to the Mesa County 2020 Land Development Code (as amended); and

WHEREAS, the Agenda Item consisted of a request for approval of amendments to the Mesa County 2020 Land Development Code (as amended); and

WHEREAS, the Staff recommended approval of the Agenda Item, and the Mesa County Planning Commission voted 6-1 to recommend approval of the Agenda Item to the Board of County Commissioners; and

WHEREAS, the Mesa County Board of County Commissioners considered the Agenda Item at a properly noticed public hearing on April 23rd, 2024.

NOW, THEREFORE, BE IT RESOLVED THE BOARD OF COUNTY COMMISSIONERS OF COUNTY OF MESA FINDS AS FOLLOWS:

1. The public notice requirements of Sections 3.02 D. of the Mesa County 2020 Land Development Code (as amended) have been met; and

2. The Mesa County Board of County Commissioners hereby determines that the proposed amendments to the Mesa County 2020 Land Development Code (as amended) contained in the Agenda Item are in the best interest of the citizens and businesses of Mesa County, and that such Code amendments promote the health safety and welfare of the citizens and businesses of Mesa County; and

3. The application is in accordance with relevant Mesa County Master Plan Policies and the health, safety, and welfare of the citizens and businesses of Mesa County; and

4. The application meets Section 1.05 of the Mesa County 2020 Land Development Code (as amended) and does not conflict with other sections in the Mesa County 2020 Land Development Code (as amended); and

5. The application meets Section 4.09 of the Mesa County 2020 Land Development Code (as amended) wherein the Board of County Commissioners may consider amendments to the text of this Land Development Code as may be required from time to time; and

6. The Chair is authorized to take all action necessary and appropriate to effectuate the provisions of this Resolution in accordance with Colorado law; and

7. The Moratorium (Resolution 2024-3) passed by the Mesa County Board of County Commissioners is hereby rescinded effective immediately; and

8. The Mesa County 2020 Land Development Code (as amended) is hereby amended as follows: (Proposed additions are **Shown in Red Ink**. Proposed deletions are shown in strike through.)

SECTION 6.01 | USE REGULATIONS

TABLE 6-1: USE TABLE

Principal Uses Allowed

Use Category (Section)	Specific Use Type	Rural	Urban Residential								Nonresidential						Mack Overlay Districts		Mixed Use Districts			Gateway Overlay District		Site Specific Standards
		AFT/AF35 RSFR URR RSFE RSF-1 RSF-2 RSF-4 RMF-5 RMF-8 RMF-12 RMF-16 RMF-24	R-O B-1 B-2 C-1 C-2 I-1 I-2	TIER #1 TIER #2	MU-OTC MUR MUC	Area A Area B																		
Institutional & Civic (Section 12.04)																								

SECTION 6.02 | USE SPECIFIC STANDARDS

CC. Utility, Production

1. Applicability

a. The following standards shall apply to all new energy production facilities to regulate the development and surface impacts that these facilities may have on the public health, safety, and welfare for any of the following:

- (1) Private energy facilities
- (2) Community solar garden as defined by CRS 40-2-127
- (3) Energy generation/production facility
- (4) Agrivoltaics

b. Any facility that exceeds the definition of a private energy facility in C.R.S 124 or C.R.S 40-2-127, or community solar garden in C.R.S 40-2-127 shall be processed as an energy generation/production facility.

2. Submittal Requirements for Energy Generation/Production Facilities

a. Narrative

The applicant will provide a narrative describing the proposed facility including but not limited to; general description of the proposal, the height and location of equipment and ancillary structures, health and safety, decommissioning, traffic analysis, construction schedule, type and location of interconnection, rated capacity,

b. Site plan

The site plan map shall be provided in a legible format and shall include but not be limited to the location and arrangement of screening, fencing, existing and proposed structures, equipment, roadways and access points, wildlife corridors, floodplain, easements, existing utilities, and connection to the electrical grid.

c. Setbacks

- (1) One quarter (1/4) mile from a designated Scenic By-way.
- (2) A minimum of one hundred fifty (150) feet from the nearest outside wall of residential occupied structure on adjacent properties.

d. Fire Prevention and Safety Procedures

- (1) The relevant Fire Protection District's adopted standards, based on current fire code, shall apply.
- (2) A fire break or other facility perimeter design acceptable to the fire district shall be required to reduce or eliminate the interface risk from wildfire.
- (3) If fenced, egress gates should be installed approximately every 300 feet along any perimeter fencing.
- (4) A vegetation management plan shall describe the operator's methods to maintain vegetation inside the facility to address wildfire which may include treatment, mowing, agrivoltaics or other methods of fuel reduction.

e. Visual Mitigation

Reasonable efforts to mitigate visual impacts of an energy generation/production facility will be detailed in the project narrative. Visual impact mitigation may include opaque fencing, screening, berming, use of existing or planted vegetation of landscaping either on-site, or off-site.

- (1) Solar System equipment shall be no higher than fifteen (15) feet at the solar panel mounting point. The height of the interconnection equipment may exceed 15 feet. Solar System Facilities within 50 feet of a property line of a residential zoned property should be designed with some form of visual mitigation, to include but not be limited to, opaque fencing, or landscaping.
 - (2) Agrivoltaics are exempt from height restrictions.
- f. Wildlife, Wetlands, Riparian Areas and Stream Channel Measures
- (1) The Operator shall address the recommendations of Colorado Parks & Wildlife (CPW) that address any site-specific site conditions. The Applicant shall avoid constructing in CPW-mapped High Priority Habitats (HPH) to the maximum extent possible.
 - (2) Operator shall inspect the interior of the facility at least once weekly, to potentially free any trapped animals.
 - (3) When fencing is necessary, the use of wildlife friendly fencing is encouraged.
- g. Decommissioning Plan
- At the time of application, Operator shall include a decommissioning plan for the facility which will include detailed plans for management and removal of equipment, mounting systems, above and underground utilities, equipment and facilities as follows:
- (1) A cost estimate for the decommissioning of the facility and restoration of the site prepared by a Professional Engineer or contractor who has expertise in removal of such facilities.
 - (2) Within twelve (12) months of ceasing operations, the operator shall complete decommissioning of the facility which may include removal of all aboveground and belowground equipment and structures and removal of any access roads and fire breaks unless previous agreements have been made with the property owner.
 - (3) Any equipment that cannot be recycled shall be properly disposed in accordance with all State and Federal regulations.
 - (4) The site shall be revegetated in compliance with the property owner's specifications or to a minimum of 70% of predevelopment vegetative cover whichever is less.
- h. Utility Interconnection
- The applicant shall provide available information or certification of intent to enter into an interconnection agreement with final details submitted prior to construction of the facility.
- i. Insurance
- The owner/operator shall provide proof of general liability insurance with commercially reasonable amounts of coverage for the permitted facility. Facility owners/operators shall maintain such insurance in place through all times the facility is in operation.

3. Approval Criteria

In evaluating the proposal, the request shall consider conditions of approval and all applicable requirements of this LDC, including, but not limited to:

- a. The health, safety and welfare of the citizens of this jurisdiction will be protected and served;
- b. The facility will not unreasonably impact the physical, economic, or social environment, except as permitted in Chapter 6 Use Regulations as applicable.
- c. When an impact is expected to occur, reasonable modifications and programs and other reasonable mitigating actions will be implemented and maintained to minimize the degree of adversity of the impact;
- d. There exists a need, or a reasonably foreseeable need, for the facility as proposed.

SECTION 12.01 | GENERAL

Energy Generation/Production Facility. A facility designed to generate electricity by the conversion of natural resources such as light, fossil fuels, nuclear or water which is directly connected to the utility grid supplying electricity serving a wide customer base without being connected to specific end-users.

Private Energy Facility. A residential or business-scale energy conversion facility designed to generate electricity by the conversion of natural resources such as light, natural gas, nuclear, biomass or water which produces electricity for on-site uses or to nearby off-site facilities under the same ownership, for which the private facility is intended to provide electrical power and is a behind-the-meter installation.

Community Solar Garden: A solar power generating facility designed to produce electricity as defined in C.R.S 40-2-127. A community solar garden may include battery storage equipment as accessory equipment.

Agrivoltaics: Agrivoltaics, agrophotovoltaics, agrisolar, or dual-use solar is the simultaneous use of land for both solar panels and agricultural production, such as crop or livestock production or pollinator habitats, underneath or adjacent to solar panels.

Behind-the-meter: Means an energy resource that is interconnected on the property owner's side of the utility meter providing electric energy primarily to serve the property owner's loads.

Fire Protection District: A Fire Protection District within Mesa County is defined as one which has been recognized by resolution as per C.R.S 32-1-102 (2022) by the BoCC.

Residential Occupied Structure: See Building, Principle see also Dwelling Unit.

SECTION 12.04 | GENERAL

K. Utilities, Production

1. Characteristics

A facility designed and operated for the generation, and distribution of electricity which use fossil fuels, solar energy, hydroelectric energy, geothermal energy, nuclear, biomass energy or wind energy as a resource for the primary purpose of selling electricity generated to the electric power grid.

2. Accessory Uses

Accessory uses may include parking and control, monitoring, data or transmission or battery storage equipment and agrivoltaics.

3. Exceptions

- a. Does not apply to on-site generation equipment when such use is an accessory use as described in Section 6.02 CC of this LCD.
- b. Transmission lines, substations, and pipelines.
- c. Utility production facilities with no occupied structures or full-time on-site employees are exempt from the requirements for potable water required in Section 8.09.

DULY MOVED, SECONDED, AND PASSED THIS 23rd day of April, 2024.

ATTEST:

Bobbie Gross
Mesa County Clerk & Recorder

Bobbie Daniel, Chair
Mesa County Board of County Commissioners,
State of Colorado