

ORDINANCE NUMBER 26-O-029

AN ORDINANCE TO AMEND SECTION 31-701(c) AND APPENDIX A OF THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SUFFOLK, VIRGINIA; OTA2026-002

WHEREAS, the City of Suffolk, Virginia has initiated the aforementioned amendments to the Code of the City of Suffolk Unified Development Ordinance for the purpose of updating and improving clarity and consistency due to a change in circumstances; and,

WHEREAS, the specified amendments to the Unified Development Ordinance as shown in Exhibit "B" are in compliance with the 2045 Comprehensive Plan, as adopted; and,

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "A"; and,

WHEREAS, the procedural requirements for the consideration of this request by the Planning Commission have been met.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

- Section 1. Exhibit "B," "Amendments to Section 31-701(c) and Appendix A of the Unified Development Ordinance of the City of Suffolk, Virginia" which is attached hereto, is hereby incorporated as part of this ordinance;
- Section 2. Section 31-701(c) and Appendix A of the Unified Development Ordinance of the City of Suffolk, Virginia are hereby amended to read as referenced in Exhibit "B".
- Section 3. All phrases, clauses, sentences, paragraphs, subsections, sections and chapters of the Code not amended hereby remain in full force and effect.

This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: MARCH 18, 2026

TESTE: *Erika S. Dawley*
Erika S. Dawley, MMC, City Clerk

A TRUE COPY
Racely Sanford
Deputy City Clerk

Exhibit "A"

RESOLUTION NO. 26-02-05

CITY OF SUFFOLK PLANNING COMMISSION
 A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION
 TO CITY COUNCIL RELATING TO
 OTA2026-002
 AN ORDINANCE TO AMEND SECTION 31-701(c) AND APPENDIX A OF THE UNIFIED
 DEVELOPMENT ORDINANCE OF THE CITY OF SUFFOLK, VIRGINIA.

WHEREAS, the City of Suffolk, Virginia has initiated the aforementioned amendments to Chapter 31 of the Unified Development Ordinance for the purpose of updating and improving clarity and consistency due to a change in circumstances; and

WHEREAS, the specified amendments to the Unified Development Ordinance as shown in Exhibit "B" are in compliance with the 2045 Comprehensive Plan, as adopted; and

WHEREAS, the procedural requirements for the consideration of this request by the Planning Commission have been met.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Suffolk, Virginia, that:

Section 1. Findings.

The Suffolk Planning Commission finds that the proposed ordinance amendments are reasonable and warranted.

Section 2. Recommendation to City Council.

The Planning Commission recommends to the City Council of the City of Suffolk, Virginia that the proposed amendments be;

- a. Adopted as submitted without modification.
- b. Denied, and that Council not pass the proposed ordinance.
- c. Adopted with the modifications set forth on the attached listing of specific recommendations, and that Council adopt the proposed Ordinance with such modifications.

READ AND ADOPTED: February 17, 2026

TESTE: 

“Exhibit B”
“Amendments to Section 31-701(c) and Appendix A of the Unified Development Ordinance
of the City of Suffolk, Virginia”

SEC. 31-701. ACCESSORY USES AND STRUCTURES.

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- (c) **ACCESSORY USES PERMITTED IN CONJUNCTION WITH COMMERCIAL AND INDUSTRIAL USES.** The following accessory uses shall be permitted in conjunction with commercial and industrial uses:

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(3) Battery energy storage systems in M-2 Zoning Districts as an accessory use to a permitted manufacturing use not to exceed 18 MWh in total storage capacity per facility. Battery energy storage systems are not permitted in conjunction with any other uses including solar energy facilities.

A. The following standards shall apply to these facilities.

- (i) *Emergency response plan.* An emergency response plan shall be submitted with the site plan that includes, at a minimum:
- a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions;
 - b. Procedures for inspection and testing of associated alarms, interlocks, and controls;
 - c. Procedures to be followed in response to notifications from the battery energy storage system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure;
 - d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures may include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire;
 - e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required;
 - f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility;
 - g. A water containment plan;
 - h. Other procedures as determined necessary by the city to provide for the safety of occupants, neighboring properties, and emergency responders; and

- i. 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.
- (ii) Noise. A noise study shall be submitted with the site plan that includes, at a minimum, demonstration that typical audible sound from the battery energy storage system shall not exceed the performance standards for noise for residential receiving properties lying adjacent to, or within five hundred (500) feet of any component of, such facility, in accordance with Section 31-608(c)(8) and Table 608-1, as measured at the nearest property line, for any adjacent non-participating property owner.
- (iii) Screening. All battery energy storage systems shall be required to be fully screened from all off-site views.
 - a. Where existing vegetation on the subject property surrounding the facility achieves the required visual screen as viewed from adjacent properties and public roads, the applicant may preserve such vegetation at minimum width of 15 feet in lieu of planting additional vegetation.
 - b. In those instances where the existing vegetation and topography are insufficient to achieve a continuous visual buffer at least 15 feet in width, sufficient landscaping shall be installed in a minimum 15 foot wide buffer.
 - c. Materials and ratios.
 - (i) Plant materials. Buffers shall contain fully evergreen plant materials.
 - (ii) Planting for the entire length of the unvegetated buffer area shall provide large evergreen shrubs having a height of not less than 6 feet at the time of planting, planted in a minimum of two rows, with staggered on-center spacing to provide a continuous visual barrier at the time of installation as viewed from adjacent roads and properties.
 - d. A landscape maintenance bond required by Section 31-603(c)(3) of this Ordinance for a battery energy storage system shall be held for a period of 24 months following the date of Certificate of Occupancy issuance or final inspection by the City.
 - e. If the plantings fail to achieve visual screening of the battery energy storage system within two (2) years following installation thereof, the City may require at its sole discretion the installation of additional screening measures, including but not limited to screening fabric or slats on the fencing enclosing such facility, to ensure adequate visual screening of the facility and its components during the life of the battery energy storage system.
- (iv) Decommissioning agreement. Prior to approval of a site plan, the applicant/owner shall enter into a written decommissioning agreement with

the city, in a form approved by the city attorney, to be implemented upon abandonment of, or cessation of activities at, the battery energy storage system. This written agreement shall include, at a minimum, the following terms and conditions:

- a. A narrative description of the battery energy storage system equipment and uses, the decommissioning process, a stated timeframe within which the site will be decommissioned, and the estimated costs for decommissioning. Such narrative description shall be prepared by a professional engineer licensed in the Commonwealth of Virginia who has experience preparing decommissioning estimates;
 - b. The estimated costs for decommissioning the battery energy storage system shall be sufficient to secure the proper and lawful decommissioning of the site, including a reasonable allowance for estimated administrative costs related to a default and an annual inflation factor; and
 - c. Upon cessation or abandonment of the battery energy storage system the applicant/owner shall safely remove and properly dispose of all battery energy storage system equipment, facilities, and devices and restore the property to its pre-use condition.
 - d. A certified copy of the approved decommissioning agreement pursuant to this Section shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.
- (v) Financial assurance. The applicant/owner shall provide the city with financial assurance based upon the estimated costs for decommissioning as required herein.
- a. The financial assurance may be in the form of certified funds, cash escrow, bond, or irrevocable letter of credit, subject to the approval of the city attorney.
 - b. If the applicant/owner of a battery energy storage system breaches the obligations in the written decommissioning agreement, then the city may utilize the financial assurance required herein, in whole or in part, to enter the property and engage in decommissioning the site without the applicant/owner's consent. Any portion of the financial assurance not utilized by the city may be released only upon compliance with the following:
 - i. Cessation of all operations of the battery energy storage system;
 - ii. Complete decommissioning of the site;
 - iii. Final site inspection and approval of the decommissioned site by the Director;
 - iv. Certification that all inspections and approvals required under applicable state or federal law have been obtained; and

- v. Submission of a written document, signed by the applicant/owner, indemnifying the city against any and all costs, fines, penalties, or damages resulting from any environmental pollution which arose, or may arise, out of the design, construction, operation, maintenance, decommissioning, or abandonment of the battery energy storage system.
- (vi) Design and installation standards. In addition to any other applicable site plan and design requirements in this ordinance, any battery energy storage system shall, at a minimum, adhere to the following requirements and standards:
 - a. Required setbacks. As established by fire industry best practices for a safe perimeter and a "cold zone", and to protect and preserve the health, safety, and welfare of persons, neighboring property, and the overall quality of life in Suffolk, all components of any battery energy storage system shall be setback two hundred (200) feet from all property lines.
- (vii) Operation. A battery energy storage system shall be operated in accordance with all applicable laws, policies, standard manuals, and industry best practices as they all may be amended from time to time. This includes, but is not limited to:
 - a. Current applicable Fire Code;
 - b. The USBC;
 - c. City standard policies and manuals;
 - d. NFPA and other industry best practices, including but not limited to NFPA 855, UL 9540, and UL 9540A; and
 - e. All other applicable sections of local, state, and federal codes.
- (viii) Transfer of ownership. Within thirty (30) days of a change in at least fifty (50) percent of ownership or control of a battery energy storage system, the owner shall notify the Director of such change. This notification shall include:
 - a. The name, address, and contact information for the new owner and designee in the Commonwealth of Virginia; and
 - b. Written proof, subject to the review and approval of the city attorney that the new owner has been advised of and agreed in writing to comply with:
 - i. This ordinance; and
 - ii. The decommissioning agreement.

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BATTERY ENERGY STORAGE SYSTEM (BESS). A system of electrochemical devices that charge, or collect, energy from the grid or a generation facility, store that energy, and then discharge that energy at a later time to supply electrical energy. This does not include a stand-alone 12-volt car battery or an electric motor vehicle.

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