

Title 10.00. An Ordinance Adopting Amendments to Title 10.17. Conditional Uses. adding Sections 10.17.100.A.9. and 10.17.100.I. pertaining to Solar Plant-Large. Ordinance # 10242023

Dated October 24, 2023

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WHEREAS, the Fairfield Town Council deems it to be in the best interest of Fairfield Town to amend the Fairfield Town Code by adding Section 10.17.100.A.9. - Solar Power Plant-Large to the list of approved conditional uses and adding 10.17.100.I. - Minimum requirements and regulations for Solar Power Plant-Large conditional use.

WHEREAS, the Fairfield Town Council has reviewed the proposed amendments to the Fairfield Town Code;

NOW THEREFORE, be it ordained by the Town Council of Fairfield Town, in the State of Utah, that Title 10.17.100 of the Town Code be amended as follows:

Add:

Section 10.17.100.A.9. Solar Power Plant-Large; adding Solar Power Plant-Large to the list of approved conditional uses.

Add:

Section 10.17.100.I. Standards for Solar Power Plant-Large; adding minimum requirements and regulations for Solar Power Plant-Large conditional use.

1. Purpose. The purpose of this section is to establish the minimum requirements and regulations for the placement, construction, modification, and decommissioning of a Solar Power Plant-Large within Fairfield Town (the "Town") and issuing a conditional use permit subject to reasonable conditions that promote and protect the public health, safety, and welfare of the Town, while promoting the development of renewable energy resources.
2. Definitions. For the purpose of this chapter the following words and terms shall have the meaning ascribed to them unless such definition is inconsistent with the manifest intent or contrary to the context of the language of the ordinance.

Abandoned Solar Energy System. Means any Solar Power Plant-Large that remains nonfunctional or inoperative, meaning it is not being used to generate energy or is not maintained in compliance with the terms of an approved conditional use permit for a continuous period of one hundred eighty (180) days. A Solar Power Plant-Large that is nonfunctional or inoperative for any period of time as a result of an emergency or force majeure event, any maintenance, repair, or repowering of the plant by the owner or operator, and/or curtailment by an end user or power purchaser, or any other periods of nonuse that are planned or scheduled by the owner or operator of the plant or otherwise required by the power purchaser or transmission provider shall not be deemed abandoned for purposes of this ordinance.

Applicant. Means the person(s) or entity(ies) that submits an application to the Town for a conditional use permit to install a Solar Power Plant-Large pursuant to this ordinance.

Concentrating Solar Thermal Devices. Means systems that use lenses, mirrors, or tracking systems to focus or reflect a large area of sunlight into a small area by a transfer of fluid or gas, which is used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit.

Disturbance Zone. Means the area of a site directly impacted by the construction and operation of a Solar Power Plant-Large. Impacts within the disturbance zone may include, without limitation, reasonably anticipated detrimental effects to protected viewsheds, aquifers, water resources, and wildlife habitat or migration corridors located on the site.

Hazardous Waste. Means any solid waste governed by the Resource Conservation and Recovery Act Subtitle C regulation.

Integrated PV. Means photovoltaics incorporated into building materials, such as shingles.

Offsite Impacted Area. Means:

- a. The neighboring properties and roadways located adjacent to the Disturbance Zone that are reasonably anticipated to be detrimentally affected by glare produced by the operation of a Solar Power Plant Large; and;
- b. A protected viewshed that includes the Disturbance Zone and other areas outside the Disturbance Zone that is reasonably anticipated to be detrimentally affected by the Solar Power Plant-Large. Areas outside of the Disturbance Zone where a Solar Power Plant-Large may be visible are not considered within the offsite impacted area solely by the fact that the plant is visible if there are no reasonably anticipated glare or visual impacts or reasonably anticipated impact to a protected viewshed that includes the site.

Operator. Means the individual(s) or entity(ies) responsible for the overall operation and management of a Solar Power Plant-Large. As used in this chapter, the term "operator" may include both individuals and any form of legal entity such as a corporation, partnership, or limited liability company.

Owner. Means the individual(s) or entity(ies) which owns all or a portion of a Solar Power Plant-Large. As used in this chapter, the term "owner" includes individuals and any form of legal entity such as a corporation, partnership, or limited liability company.

Person. Means individuals, partnerships, corporations, limited liability companies, or other legal entities which can hold property and/or take legal action.

Photovoltaic Device. Means a system of components that generates electrical energy from sunlight by means of photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.

Photovoltaic or PV. Means materials and devices that absorb sunlight and convert it directly into electricity.

Protected Viewshed. Means any viewshed corridor located within Town that has been officially designated as a protected viewshed corridor under the Town's Zoning Code.

Rated Capacity. Means the maximum capacity of a Solar Power Plant-Large based on the sum total of each photovoltaic system's nameplate capacity.

Site. Means the property where a Solar Energy Project is constructed and includes any Disturbance Zone as that term is defined in this chapter.

Solar Energy Project or Project. Means a renewable energy project that either:

- a. Generates electricity from sunlight, consisting of one or more PV systems and other

appurtenant structures and facilities within the boundaries of the site, or

- b. Utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy, and does not meet any of the following criteria:
 - i. Has a Disturbance Zone of less than two (2) acres;
 - ii. Is mounted on or over a building or parking lot or other previously-disturbed area;
or
 - iii. Utilizes Integrated PV only.

Solar Power Plant-Large. Means a Solar Energy Project intended to generate electric energy by converting sunlight, whether by solar devices or other conversion technology, for the sale, delivery, transmission, or consumption of the generated energy by more than one end-user or by an end-user other than the owner or lessor of the property on which the Solar Energy Project is constructed and operated. A Solar Power Plant-Large may also include one or more substations, energy storage facilities, and/or transmission facilities and improvements. Any Solar Energy Project which is proposed to be constructed on a lot of more than two (2) acres in size will be deemed to be a Solar Power Plant-Large and subject to all of the permitting and evaluation criteria applicable to a Solar Power Plant-Large under this chapter. A Solar Energy Project containing only transmission facilities and improvements may be considered a Solar Power Plant-Large if the electrical energy transmitted along the project was generated by solar devices or other conversion technology at an off-site location.

Substation. Means any combination of transformers, circuit breakers, lightning arrestors, and associated equipment designed to either step up power generated by any Solar Energy Project for transmission or to step down any power coming into a Solar Energy Project from an external transmission system.

- 3. **Concentrating Solar Thermal Devices Disallowed.** Concentrating solar thermal devices are not allowed in the Town.
- 4. **Permitting and Licensing:**
 - a. **Solar Power Plant-Large** may only be constructed if the Town issues the owner/operator a conditional use permit and a Solar Power Plant-Large is designated as a conditional use in the applicable zoning district.
 - b. **Inspection Fees.** Any applicant for a conditional use permit under this chapter will be required to cover the cost of inspection fees for inspections that shall be performed by a qualified third party inspector not more than once a year following completion of construction of a Solar Power Plant-Large. The amount of the inspection fees shall be reasonable and shall not exceed the actual costs incurred by the Town to perform the inspection. Inspection Fees will be a condition for issuance and/or renewal of any annual business license required by this Code.
- 5. **Conditional Use Permit Applications.** In addition to the general requirements for a conditional use permit, an application for a Solar Power Plant-Large shall include the following information:
 - a. **Project description.** A narrative identifying the applicant, owner, and operator, and describing the proposed Solar Energy Project, including a detailed overview of the

- project and its location; the approximate estimated rated capacity of the Solar Power Plant-Large; the approximate number, representative types and expected footprint of solar equipment to be used or constructed; and a description of any ancillary equipment, buildings, and structures, if applicable; an estimated construction schedule and project life;
- b. Site and development plans. The site and development plans shall include the following information:
- i. Property lines and setback lines;
 - ii. Existing and proposed buildings and structures, including the location(s) of the proposed PV and any other solar equipment;
 - iii. Existing and proposed access roads, drives, turnout locations, and parking;
 - iv. The location of all substations, electrical cabling from the solar energy project to all substations, ancillary equipment, buildings, and structures (including those within any applicable setbacks);
 - v. Fencing or other methods of ensuring public safety;
 - vi. Areas of wildlife habitat and migration corridors and areas of historic, archeological, and cultural resources within the Disturbance Zone and Offsite Impacted Area;
 - vii. Erodible slopes and soils, and/or which present concerns for water quality, landslide, severe erosion, or high storm runoff potential;
 - viii. Historic, archeological, and cultural resources;
 - x. Areas containing erodible slopes and soils, and/or which present concerns for water quality, landslide, severe erosion, or high storm runoff potential;
 - xi. Existing utilities, pipelines, and transmission lines; proposed utility lines; utility and maintenance structures; existing topographic contours; existing and proposed drainage ways; proposed grading; areas of natural vegetation removal; and
 - xii. Any existing inhabitable structures and residentially-zoned lots within ¼ mile of the project;
 - xiii. Any floodplains or wetlands; and
 - xiv. Additional information may be required, as determined by Town officials or staff, such as a scaled elevation view and other supporting drawings, photographs of the proposed Site, photos or other realistic simulations or modeling of the proposed Solar Energy Project from potentially sensitive locations as deemed necessary by Town officials to assess the visual impact of the project, a landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.
- c. Documentation of the Right to Use the Site for the Proposed Solar Power Plant-Large. Documentation shall include proof of ownership or control over the site or legal proof of

the owner/operator's right to use the site in the manner requested. The applicant may redact sensitive financial or confidential business information from the documentation provided, so long as doing so does not prevent Town officials or staff from confirming the applicant's legal right to utilize the site for the proposed purpose. Copies of recorded deeds or memoranda of leases and easements shall be deemed sufficient for purposes of demonstrating site control under this Code;

- d. Documentation of Permits or Permit Applications. As a condition of approval of any conditional use permit pursuant to this subsection, the applicant shall be required to provide Town staff with certified copies of all necessary permits to construct any Solar Power Plant–Large from the Federal Energy Regulatory Commission (“FERC”) and the Utah State Public Service Commission (“Utah PSC”). The Town may withhold approval of any building permits for a Solar Power Plant–Large if the applicant fails to provide copies of such required permits at the time the applicant applies for a building permit;
- e. Confirmation of Commitment to Purchase Power. As a condition of approval of any conditional use permit pursuant to this subsection, the applicant shall provide Town staff with documentation demonstrating a commitment by a power purchaser to purchase one hundred (100) percent of the anticipated power to be generated by any Solar Power Plant–Large being proposed for permitting. The Town may withhold approval of a building permit for a Solar Power Plant–Large if the applicant fails to provide such documentation at the time the applicant applies for a building permit. Documentation may include, without limitation, evidence that the applicant has been selected by a power purchaser to negotiate a power purchase agreement, a memorandum of an executed power purchase agreement, docket filings or other publicly available records of the Utah PSC or other regulatory agency with jurisdiction evidencing the approval of such agreement. The applicant shall not be required to provide a copy of its power purchase agreement to satisfy the requirements of this section;
- f. Local Economic Benefits. The Applicant must provide an analysis of local economic benefits, describing estimated project cost, generated taxes, the percentage of construction dollars to be spent locally, and the number of local construction and permanent jobs that are anticipated to be created as a result of the project. In addition to these factors, the analysis of local economic benefits shall include an analysis of the anticipated life of the project, the costs to decommission the project at the end of its useful life, an estimate of the costs of disposal of all components of the project, including the potential cleanup costs of any hazardous waste generated both by the operation of the project and as part of decommissioning the project and disposal of the buildings, materials, components, waste, and accessory structures that exist because of the project. Finally, the analysis of economic benefits will include an assessment of the loss of all agricultural land within the Disturbance Zone used for the construction and operation of the proposed project, including the costs to mitigate the effects of sedimentation to the local surface and groundwater as a result of the removal of vegetation from the site over the anticipated life of the proposed project;
- g. Environmental Analysis. The applicant shall prepare an environmental review to include an evaluation of the reasonably anticipated wildlife impacts, visual impacts, soil impacts, including impacts arising from the removal of vegetation from the site for any Solar Power Plant–Large, and possible sedimentation arising from that removal, and an evaluation of any wildlife, historic, archeological, and cultural resources identified by DWR and UTSHPO in accordance with Section 10.17.100.I.(5)(b)(vi) At the applicant's election, the analysis required under this section may be prepared so as to be consistent with the requirements of

the National Environmental Policy Act, 42 U.S.C. § 4321, et seq. ("NEPA") and regulations issued by the Council on Environmental Quality or such alternative regulations as the applicant proposes that are consistent with the requirements of this Code, with the applicant supporting its decision by a submission to the Planning Commission. In the event that the applicant is required by any state or federal agency to undertake review of the proposed project under NEPA, documents prepared by the applicant to comply with those requirements may be submitted to the Town in satisfaction of this requirement. In addition, the environmental review documents shall include an evaluation of the decommissioning plan required by this Code and the reasonably anticipated environmental impacts arising from the implementation of the decommissioning plan. The review documents prepared pursuant to this section must identify all such reasonably anticipated impacts and propose modifications to any proposed project to reasonably mitigate the reasonably anticipated detrimental impacts. In the event that avoidance of the identified impacts is not deemed possible, the environmental review documents prepared pursuant to this section shall include proposals for the mitigation of any identified impacts which cannot be avoided. Both the Planning Commission and the Town Council may deny any application for a conditional use permit to the extent permitted under state law based on their determination that the reasonably anticipated detrimental effects of a proposed Solar Power Plant-Large cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with the standards of approval set forth in this subsection;

- h. **Solid and Hazardous Waste.** Include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous waste, as well as collection methods for all solid waste generated by the Solar Energy Project. In addition, an application for a conditional use permit pursuant to this subsection shall include, as part of the decommissioning plan required under Section, 10.17.100.1.5.h. a disposal plan for all solid waste and any hazardous waste that will be generated by the implementation of the decommissioning plan. The calculation of the decommissioning costs (as defined in 10.17.100.1.5.h.) shall include the costs to dispose of any hazardous waste generated by a proposed Solar Power Plant-Large as part of the decommissioning of the project. Any hazardous waste generated as a result of the construction, operation, maintenance or decommissioning of a Solar Power Plant-Large may not be disposed within the Town. Prior to the issuance of a building permit, an applicant shall provide the Town with the Safety Data Sheets (SDS) from the manufacturer of the solar array panels proposed for the project, as well as the SDS for all other components of the proposed project for which SDSs exist;
- i. **Transportation Plan for Construction and Operation Phases.** Indicate by both a narrative description and a map the roads the applicant will utilize during the construction and operational phases of the project, along with their existing surfacing and condition. In addition, the application must specify any new roads and proposed upgrades or improvements needed to the existing road system to serve the project during both the construction and operation of the project. Any application must also identify all areas where modification of the topography is anticipated (cutting/filling) to construct or improve the roadways, address road improvement, restoration or maintenance needs associated with the construction, ongoing maintenance/repair, and potential dismantling and/or decommissioning of the project, provide projected traffic counts for the construction period, broken down by the general type/size of vehicles, and identify approximately how many trips will have oversized or overweight loads. If significant impacts to the Towns' transportation system are anticipated, the Town may require financial guarantees to ensure proper repair/restoration of roadways or other infrastructure damaged or degraded during construction or dismantling of the project. In such cases, the "before" conditions of the roadways and other infrastructure must be documented through appropriate methods such as videos, photos, and written records, in order to provide a proper reference for

restoration;

- j. **Public Safety.** Identify and address any known or suspected potential safety hazards to the Town, adjacent properties, public roadways, communities, and any other potential impacts to public safety that may be created by the proposed project;
- k. **Noise limitations.** Include sufficient information regarding noise generated during both the construction and the operation of the proposed project so as to demonstrate compliance with Fairfield Nuisance code 5.1.120
- l. **Visual and Glare Impacts and Protected Viewsheds.** As part of the environmental review required under 10.17.100.I.5.g. an evaluation of the reasonably anticipated detrimental glare impacts and impacts to protected viewsheds within the Disturbance Zone and offsite impacted area shall be undertaken and included as part of that environmental review. The applicant shall also provide an evaluation of visual impacts caused by components of the project such as mirrors, solar towers, cooling towers, steam plumes above-ground electrical lines, accessory structures, access roads, utility trenches and installations, and alteration of vegetation. The environmental review shall assess the visual and glare impacts within both the Disturbance Zone and offsite impacted area of all such components that are proposed to be installed as part of a Solar Power Plant-Large, and an assessment of those impacts shall be included as part of a visual simulation of the planned structures and analysis of reasonably anticipated glare impacts within the proposed project's Disturbance Zone and offsite impacted area. The number of visual simulations shall be sufficient to provide adequate analysis of the visual impacts of the proposal, which shall be from no less than four (4) vantage points that together provide a view from all sides of the proposed Solar Power Plant-Large. More visually sensitive proposals (e.g., solar power towers or exposed mirrors in sensitive viewsheds) may require analysis from significantly more vantage points, such as different distances and sensitive locations.
- m. **Consultation with the Utah Department of Natural Resources, Division of Wildlife Resources.** The applicant shall provide Town staff with documentation that the applicant has notified DWR in writing of the proposed Solar Power Plant–Large on the Site. If, within thirty (30) days of DWR's receipt of the applicant's notice, DWR confirms in writing to the applicant that DWR has identified reasonably anticipated detrimental effects as determined by DWR to areas of wildlife habitat and migration corridors for wildlife on the site that will be affected as a result of the construction and operation of any Solar Power Plant–Large, such information obtained from the consultation with DWR will be incorporated into the environmental review required pursuant to Section 10.17.100.I.5.g. and the Planning Commission may impose reasonable conditions to mitigate the reasonably anticipated detrimental effects of the Solar Power Plant–Large on such affected habitat or corridors on the site.
- n. **Consultation with the Utah State Historic Preservation Office (SHPO) & Antiquities Section.** The applicant shall provide Town staff with documentation that the applicant has notified SHPO in writing of the proposed Solar Power Plant–Large on the Site. If, within thirty (30) days of SHPO's receipt of the applicant's notice, SHPO confirms in writing to the applicant that SHPO and identified reasonably anticipated detrimental effects of the proposed Solar Power Plant–Large on historic, archeological, and cultural resources under by Section 106 of the National Historic Preservation Act, 54 U.S.C. § 300101, and any regulations adopted pursuant to that Act, as well as the requirements of Utah Code Annotated § 9-8-404(1), such information obtained from the consultation with SHPO will be incorporated into the environmental review required pursuant to Section 10.17.100.I.5.g. and the Planning Commission may impose reasonable conditions to mitigate the reasonably

anticipated detrimental effects of the Solar Power Plant–Large on such historic, archaeological, and cultural resources on the site;

- o. Revegetation Areas and Methods;
 - p. Dust and Erosion Control;
 - q. Agreements/Easements. If the land on which the project is proposed is to be leased, rather than owned by the applicant, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the applicant and the affected parties must be in place prior to commencing construction, unless specified otherwise by the conditional use permit;
 - r. Identify the anticipated points of interconnections between the Solar Power Plant–Large and the power grid of the utility whose facilities will transmit the power generated by the Solar Power Plant–Large for which a conditional use permit is being sought. Unless waived by the Planning Commission, no above-ground collector lines may be constructed as part of a Solar Power Plant–Large, except for connections between the substation or substations included as part of a Solar Power Plant–Large required to connect the Solar Power Plant–Large to high voltage transmission lines operated by a public utility licensed by FERC and the Utah PSC. The applicant must demonstrate that any such connections are necessary, and that they comply with the requirements imposed by FERC and the Utah PSC, as applicable;
 - s. Plans to mitigate the reasonably anticipated detrimental effects of the Solar Power Plant–Large;
 - t. Additional Impacts. In addition to the impacts identified above, the Planning Commission or Town Council may require the identification, assessment, avoidance, or mitigation of any other probable and significant impacts, as identified through the review process; and
 - u. Decommissioning Plan. Submit a decommissioning plan which complies with Section 10.17.100.I.6. of this chapter.
6. Standards for a Decommissioning Plan.
- a. As part of the Conditional Use Permit application, the applicant must submit a decommissioning plan which must include the following:
 - i. The anticipated life of the project;
 - ii. The estimated cost to remove, dismantle, and dispose of the project improvements at the end of their useful life (the “decommissioning cost”), as determined by a licensed professional engineer not employed by the applicant, owner or operator, with experience in the design/construction or operation and decommissioning of Solar Energy Projects; and
 - iii. The manner in which the project will be decommissioned.
 - b. Before any conditional use permit may be issued pursuant to this subsection, the Town Council must approve the decommissioning plan submitted in connection with the application for a conditional use permit. Any such approval must include an election by the applicant of the means by which financial assurance will be provided to the Town that the

applicant will be able to implement its proposed decommissioning plan. The financial assurance means may be chosen from the following alternatives, and the required financial assurance shall be provided to the Town prior to the issuance of a building permit authorizing the commencement of construction of the project:

- i. A federally insured certificate of deposit in the name of the Town in the amount of one hundred twenty-five (125) percent of the decommissioning cost, along with a power of attorney, made in favor of the Town, allowing the Town to access the certificate of deposit in the event the applicant, owner, or operator fails to fulfill the decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction;
 - ii. A cash deposit in the amount of one hundred twenty-five (125) percent of the decommissioning cost costs, along with a power of attorney, made in favor of the Town, allowing the Town to access the cash deposit in the event the applicant, owner, or operator fails to fulfill the decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction;
 - iii. An irrevocable letter of credit in favor of the Town, in the amount of one hundred twenty-five percent (125 %) of the decommissioning cost, along with a power of attorney, made in favor of the Town, allowing the Town to access the letter of credit in the event the applicant, owner, or operator fails to fulfill the decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction; and
 - iv. Posting a performance bond to be made in favor of the Town of one hundred twenty five percent (125%) of the decommissioning cost that allows the Town to access the bond in the event the applicant,owner, or operator fails to fulfill the decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction.
7. If the owner of any Solar Energy Project finances the project with debt secured by the project, the owner shall ensure that the debt shall not be secured by and the lender(s) may not access the financial assurance posted by the applicant, owner, or operator to ensure the decommissioning costs of the project pursuant to Section 10.17.100,1.6.b.
8. To assure that the decommissioning cost upon which the decommissioning plan required by this section remains up-to-date and valid, the applicant, owner, or operator shall prepare and present to the Town an updated decommissioning plan and decommissioning cost not later than five (5) years following the issuance of any building permit by the Town for any project permitted pursuant to this section, and again every five (5) years thereafter.
9. Unsafe or Abandoned Solar Energy System. If the Building Department, after the delivery of notice to the owner or operator, finds that a Solar Energy Project is in violation of any federal, state, or local permits, approvals, or safety standards, the owner or operator shall take steps immediately to ensure the Solar Energy Project complies with all federal, state, and local permits, approvals, and safety standards. If the Planning Commission, after delivery of notice to the owner or operator, finds that the project is an Abandoned Solar Energy System, the owner or operator shall decommission the project in accordance with the decommissioning plan. Any finding by the Planning Commission pursuant to this paragraph must be made in writing and preceded by a public meeting that complies with applicable Utah law. An owner or operator may appeal a finding of the Planning Commission by following the Town's Land Use Appeal Ordinance within thirty (30) days of the date the finding was made. The Building Department may extend the one hundred eighty (180) day deadline set forth in the definition of an Abandoned Solar Energy System if the Building Department finds that the owner or operator

intends to repair and restore operations of the project and provides the Building Department with a restoration plan and timeline for doing so. If the owner or operator fails to repair or decommission an Abandoned Solar Energy System within the time frame set forth in the decommissioning plan (or as otherwise approved by the Building Department as provided herein) or fails to file a timely appeal with the Land Use Appeal Authority, this failure will be deemed as sufficient cause for the Town to utilize the security accepted by the Town pursuant to Section 10.17.100.1.6.b. and to remove the project and implement the decommissioning plan prepared by the applicant. When the owner, operator, or other responsible party decommissions a Solar Energy Project, that person or persons shall handle and dispose of the equipment and other project components in conformance with all state and local requirements. At such time as a Solar Energy Project is scheduled to be decommissioned at the end of the project's useful life, the owner, operator, or other responsible party shall notify the Town no less than three hundred sixty-five (365) days prior to the date of decommissioning, as well as notify the Town of the schedule within which the owner, operator, or other responsible party shall complete the physical removal of the Solar Energy Project. This period may be extended at the request of the owner, operator, or other responsible party, upon approval of the Town Council.

10. Standards for Location, Appearance, and Operation of a Project Site:

- a. Height Restrictions. All photovoltaic panels, solar devices, and buildings, and accessory structures located on a Solar Power Plant–Large shall be restricted to a maximum height of fifteen (15) feet when orientated at a maximum tilt, as measured from the existing grade;
- b. Setbacks. Buildings and accessory structures constructed at a Solar Power Plant-Large shall be set back from all property lines and public road rights-of-way at least twenty-five (25) feet, or one and one-half times the height of the building or structure, whichever is greater. In addition, buildings and accessory structures at a Solar Power Plant-Large must be located at least one hundred (100) feet from all residentially zoned lots and existing residences. Additional setbacks may be required to mitigate reasonably anticipated noise and glare impacts, or to provide for designated road or utility corridors, as identified through the application review process;
- c. Fencing. An appropriate security/livestock fence (height and material to be established through the conditional use permit process) shall be placed around the perimeter of any Solar Power Plant-Large. Knox key lock boxes and keys shall be provided at locked entrances to allow emergency personnel access;
- d. Signage on Solar Equipment. Warning signage shall be placed on solar equipment to the extent appropriate, as determined by Town staff, with any restrictions or requirements on signage incorporated as part of any conditional use permit issued pursuant to this ordinance. Solar equipment shall not be used for displaying any advertising except for reasonable identification of the manufacturer, owner or operator of the Solar Energy Project. All signs, flags, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment except as follows: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by any federal agency or the Utah PSC; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger. Educational signs providing information about the Project and benefits of renewable energy may be allowed as provided in the Town sign ordinance;
- e. Noise and Nuisance Requirements. Solar Energy Projects shall comply with all applicable Town noise and nuisance codes;

- f. Buildings and Accessory Structures. All buildings and accessory structures incorporated into any Solar Power Plant-Large shall use materials, colors, and textures that will blend the facility into the existing environment;
- g. Landscaping. Appropriate landscaping and/or screening materials may be required to help screen a Solar Power Plant-Large and buildings and accessory structures from major roads and neighboring residences. The use of landscaping or other screening material may be required to mitigate the reasonably anticipated detrimental visual impacts and glare impacts within the Disturbance Zone and the offsite impacted area, if any, of any Solar Power Plant-Large identified as part of the environmental review undertaken pursuant to 10.17.100.1.5.g. and may be incorporated as conditions of approval of a conditional use permit issued pursuant to this section;
- h. Lighting. Lighting of all buildings and accessory structures included in any Solar Power Plant-Large shall be limited to the minimum necessary, and full cut-off lighting as required by the Town Lighting Code and may be required when determined necessary to mitigate visual impacts. No Solar Power Plant-Large shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling on neighboring roads.
- i. Fire Protection. All Solar Power Plants-Large shall have a defensible space for fire protection with a fire protection plan which will be approved and signed off by the fire marshall.
- j. Local, State and Federal Permits. A Solar Power Plant-Large shall be required to obtain all necessary permits from the Utah PSC, the Utah Department of Environmental Quality ("Utah DEQ"), including the Utah Division of Air Quality and the Utah Division of Water Quality, any applicable permits required by the Town, and all applicable Federal permits. A condition of approval of a conditional use permit issued pursuant to this ordinance shall be reasonable documentation that the applicant has obtained all required permits to construct the Solar Power Plant-Large from FERC, the Utah PSC, and the Utah DEQ. The Town may withhold approval of a building permit for a Solar Power Plant-Large if such condition is not satisfied at the time the applicant applies for a building permit.

11. Standards of Approval for a Conditional Use Permit:

- a. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards set forth in this chapter and with all other applicable portions of the Town's land use code. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. For purposes of this chapter, the applicable standards which shall be applied in assessing any application submitted pursuant to this ordinance shall be:
 - i. Whether the proposed use meets the applicable requirements for conditional use of a "Solar Power Plant - Large" in the proposed zone;
 - ii. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

- iii. The use is consistent with all applicable adopted Town planning policies and master plans; and
 - iv. The reasonably anticipated detrimental effects of the proposed use can be mitigated by the imposition of reasonable conditions.
- b. Limitations on Conditional Use Approval. Subject to an extension of time granted by the Planning Commission, no conditional use permit approved pursuant to this Code shall be valid for a period longer than three (3) years, unless a building permit has been issued, complete building plans have been submitted to the Town building department within that period and the permitted project is thereafter diligently pursued to completion, a certificate of occupancy is issued and a use commenced within that period, or a longer time is requested and granted by the Planning Commission. Any request for a time extension shall be submitted not less than thirty (30) days prior to the expiration of the three (3) year time period.
12. The Town Council is the approval authority.
13. Appeals. See Title 10.5.170.
14. Application to Successors and Assigns. The terms of any conditional use permit issued pursuant to this Code shall run with the land and be binding on any successor or assignee of an applicant, owner or operator and any party that purchases and/or operates a project.
15. Savings Clause. If any part of this ordinance shall be deemed invalid by an administrative agency or court of competent jurisdiction, such decision shall not affect the legality and enforceability of any other provision hereof.
16. Penalties. Any person or entity who violates any of the provisions of this chapter or who fails to comply therewith, or who violates or fails to comply with any order or directive made thereunder, shall severally for each and every such violation and noncompliance respectively, be guilty of a class B misdemeanor, subject to penalty as provided in section 10.1.25 of this code. Furthermore, the imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons or entities shall be required to correct or remedy such violations or defects within a reasonable time and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

Effective Date: This Ordinance shall become effective immediately upon passage and adoption.

Passed and Adopted this **24th day of October 2023**.

FAIRFIELD TOWN



Brad Gurney, Mayor

RL Panek	yes <u>RJ</u>	no _____
Tyler Thomas	yes <u>TT</u>	no _____
Hollie McKinney	yes <u>HMc</u>	no _____
Richard Cameron	yes <u>RSC</u>	no _____

ATTEST:



Stephanie Shelley, Town Recorder/Clerk

FAIRFIELD TOWN

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, Stephanie Shelley, Town Recorder of Fairfield Town, Utah, do hereby certify and declare that the above and foregoing is a true, full and correct copy of an ordinance passed by the Town Council of Fairfield Town, Utah, on the **24th day of October 2023**

Title 10.00. An Ordinance Adopting Amendments to Title 10. Section 17. Conditional Uses. adding Sections 10.17.100.A.9. and 10.17.100.I. pertaining to Solar Plant-Large. Ordinance # 10242023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Fairfield Town Utah this **24th day of October 2023**



Stephanie Shelley
Fairfield Town Recorder/Clerk



AFFIDAVIT OF POSTING

STATE OF UTAH)
)
COUNTY OF UTAH)

I, Stephanie Shelley, Town Recorder of Fairfield Town, Utah, do hereby certify and declare that I posted in three (3) public places the following summary of the ordinance which was passed by the Fairfield Town Council on the **24th day of October 2023** and herein referred to as:

SUMMARY.

An Ordinance amending the Fairfield Town Code by adding Section 10.17.100.A.9. - Solar Power Plant-Large to the list of approved conditional uses and adding 10.17.100.I. - Minimum requirements and regulations for Solar Power Plant-Large conditional use.

The three places are as follows:

1. Fairfield Town Hall
2. Fairfield Town Website
3. Utah State Public Notice Website



Stephanie Shelley
Fairfield Town Recorder/Clerk

Date of Posting 26th day of October 2023.