

AN ORDINANCE RESCINDING AND REPEALING ORDINANCE NO. 8-2020 (CODE SECTION 30-183.1) ("UTILITY-SCALE) (PRINCIPAL USE) SOLAR FACILITIES")

WHEREAS, on January 9, 2017 the City of Millville Planning Board adopted an updated Land Use Element; and

WHEREAS, on April 21, 2020 a prior Board of Commissioners of the City of Millville adopted Ordinance No. 8-2020 which changed the permitted uses within several of the then existing zoning districts in the City including the Agricultural Conservation District, the Land Conservation District, the Public Open Space District, the River Conservation District, the General Industry District, the Interchange Mixed Use District and the Air Park Industry District; and

WHEREAS, said Ordinance would have allowed 80% coverage of "under panel" surface of the total lot area for a utility-scale solar energy facility; and

WHEREAS, the 2017 Land Use Element recommended, inter alia, that the former Land Conservation and Agricultural Conservation Districts be consolidated into a New Farmland Production District and that the purpose of said consolidated District would be "[t]o preserve and enhance the economic viability and quality of existing agriculturally productive lands, farms, and agriculture homesteads as well as maintaining a rural low density environment." It also recommended that "[w]hen developing land use regulations and zoning for this area, deference should be given to the City's goal of preserving 50% of Millville's land in open space, farmland and forest."

WHEREAS, the 2017 Land Use Element recommended even more restrictions on development in the new proposed Open Space District which consisted of the former Public Open Space and River Conservation Districts; and

WHEREAS, the 2017 Land Use Element did not recommend that solar energy production in any form be a permitted or conditional use in either the new proposed Farmland Production District or the Open Space Zoning District; and

WHEREAS, the 2017 Land Use Element did not consider "utility-scale solar energy facilities" in its report nor recommend such a use as a permitted or conditional use in any of its proposed new zoning districts; and

WHEREAS, despite the fact that it was patently not consistent with the above provisions of the 2017 Land Use Element and changed the classification of the former zoning districts, proper legal notice was not given to affected property owners under the MLUL. N.J.S.A. 40:55D-62.1 required that notice "be given at least 10 days prior to the hearing by the municipal clerk to the owners of all real property... located in the... district and within 200 feet in all directions of the proposed boundaries of the district"; and

WHEREAS, the Board of Commissioners finds that no such notice was given prior to the public hearing on the second reading on Ordinance No. 8-2020; and

WHEREAS, the Board further finds that the public notice was defective in that it failed to sufficiently summarize the ordinance's main objectives and provisions or to identify the zoning districts it affected as required by N.J.S.A. 40:49-2.1; and

WHEREAS, the Board finds that the aforesaid Ordinance was procedurally deficient and consequently is a nullity; and

WHEREAS, the Board further finds that it was its intention to eliminate Code Section 30-183.1 at the time it enacted its new zoning ordinance, Ordinance No. 19-2023, in order to implement, the 2017 Land Use Element; and

WHEREAS, the Board further finds that Code Section 30-183.1 is outdated since it only allows the utility-scale solar facility use in zones that no longer exist; and

WHEREAS, for all the above reasons, the Board finds that it is in the best interest of the City to rescind and repeal City Ordinance No. 8-2020 (Code Section 30-183.1) in its entirety.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MILLVILLE that the City Ordinance No. 8-2020 (Code Section 30-183.1 (“Utility-scale (principal use) solar energy facilities”) is hereby rescinded and repealed in its entirety.

Section One

Should any provisions of this ordinance be deemed invalid for any reason that invalidity shall not affect the remaining provisions of the ordinance, and the provisions and sections of the ordinance are hereby declared to be severable with respect to their validity.

Section Two

This ordinance shall take effect twenty (20) days after final passage, according to law.

FIRST READING: March 19, 2024

Moved By: Romanik
Seconded By: Watson

<u>VOTING</u>	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
Benjamin J. Romanik	X			
Joseph Sooy	X			
Lisa M. Orndorf	X			
C. Kirk Hewitt	X			
Stephen E. Watson, Jr	X			

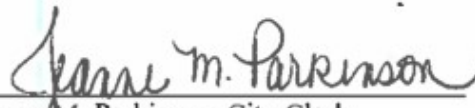
SECOND READING: April 16, 2024

Moved By: Hewitt
Seconded By: Sooy

<u>VOTING</u>	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
Benjamin J. Romanik	X			
Joseph Sooy	X			
C. Kirk Hewitt	X			
Stephen E. Watson, Jr	X			

CERTIFICATION

I certify that the foregoing is a true copy of an Ordinance adopted by the Board of Commissioners, of the City of Millville in the County of Cumberland, at a meeting thereof held on April 16, 2024.


Jeanne M. Parkinson, City Clerk

PROCEDURE

Approved on First Reading:	March 19, 2024
Published:	March 23, 2024
Approved on Second Reading:	April 16, 2024
Published:	April 20, 2024
Effective Date:	May 10, 2024