

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION DAY 2021-17**

BILL NO. 2021-13

Title of Bill: Amendment – Zoning Ordinance – Solar Related – Definitions, Permissible Uses, and Power Generating Facilities

Synopsis: An Act to amend the Cecil County Zoning Ordinance, Article II, Part I, Section 12, Definitions in order to add and define solar generation terms; Article IV, Section 54.4 Table of Permissible Uses in order to add solar related uses; and Article IV, Part XII, Section 156 Power Generating Facilities; and to add Section 162 Solar, Community Based; and Section 163 Solar, Accessory in order to differentiate Non-Solar power generating facilities; Solar, Community Based; and Solar.

Introduced by: Council President on behalf of the County Executive

Introduced and ordered posted on: September 7, 2021

Public hearing scheduled on: October 5, 2021 at: 7:00 p.m.

Scheduled for consideration: October 19, 2021

By: _____
Council Manager

PUBLIC HEARING

Notice of time and place of public hearing and title of Bill having been posted by (date) at the County Administration Building, 200 Chesapeake Blvd., Elkton and having been published according to the Charter on (dates), a public hearing was held on (date) and concluded on (date).

By: _____
Council Manager

Explanation: CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT
~~Strike through~~ indicates language deleted from existing document
Underlining indicates language added to document by amendment.
~~Double Strike through~~ indicates language stricken from document by amendment.

Amendment – Zoning Ordinance – Solar Related – Definitions, Permissible Uses, and Power Generating Facilities

1 **WHEREAS**, pursuant to Annotated Code of Maryland, Division 1, Title 4, Subtitle 1, Section
2 4-101(a)(1), Land Use Article, it is the policy of the State that orderly development and use of land and
3 structures requires comprehensive regulation through the implementation of planning and zoning
4 controls; and

5 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-102, Land Use Article, a legislative
6 body may regulate to promote the health, safety, and general welfare of the community; and

7 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-103, Land Use Article, a legislative
8 body may impose any additional conditions or limitations that the legislative body considers appropriate
9 to improve or protect the general character and design of the land and improvements being zoned or
10 rezoned; and

11 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-202, Land Use Article, the
12 legislative body shall adopt zoning regulations in accordance with the plan, with reasonable
13 consideration for the character of the district or zone and its uses and with a view to conserve the value
14 of property and encourage orderly development and the most appropriate use of land; and

15 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(a), Land Use Article, a
16 legislative body shall provide for the manner in which its zoning regulations and the boundaries of
17 districts and zones shall be established, enforced and amended; and

18 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(b)(1), Land Use Article, a
19 legislative body shall hold at least one public hearing on a proposed zoning regulation or boundary at
20 which parties of interest and citizens have an opportunity to be heard; and

21 **WHEREAS**, pursuant to Annotated Code of Maryland, Section 4-203(b)(2), Land Use Article,
22 the legislative body shall publish notice of the time and place of the public hearing, together with a
23 summary of the proposed zoning regulations or boundary, in at least one newspaper of general
24 circulation in the local jurisdiction once each week for 2 successive weeks; and

25 **WHEREAS**, an amendment to the Zoning Ordinance has been proposed to add the definitions to
26 Solar, Accessory; Solar, Community Based; and Solar, Utility, which are related to solar generating
27 facilities; and

28 **WHEREAS**, an amendment to the Zoning Ordinance has been proposed to amend Article IV,
29 Section 54.4, Table of Permissible Uses, in order to amend 12.16.000, Non-Solar Power Generating

Amendment – Zoning Ordinance – Solar Related – Definitions, Permissible Uses, and Power Generating Facilities

30 Facilities (Section 156); and add two new use descriptions; 12.16.100, Solar, Community Based (Section
31 162); and 12.16.200, Solar, Accessory (Section 163); and

32 **WHEREAS**, an amendment to the Zoning Ordinance has been proposed to amend Section 156
33 Power Generating Facilities; and add a new Section 162 Solar, Community Based; and add a new section
34 163 Solar, Accessory; and

35 **WHEREAS**, the Cecil County Planning Commission reviewed the proposed amendments on
36 August 16, 2021.

37 **NOW, THEREFORE, BE IT HEREBY ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY,**
38 **MARYLAND**, that the proposed amendment to Article II, Part I, Section 12, Definitions of Basic Terms of the
39 Cecil County Zoning Ordinance is hereby adopted as follows:

40 **Section 12. Definitions of Basic Terms**

41 **SOLAR, ACCESSORY - A SYSTEM THAT IS CLEARLY INCIDENTAL TO THE PRIMARY USE OF THE**
42 **PROPERTY THAT UTILIZES SPACE TO PROVIDE HEAT OR ELECTRICITY FOR THE PRIMARY USE OF THE**
43 **PROPERTY; LIMITED TO TWICE THE PROPERTY'S ANNUAL USAGE.**

44 **SOLAR, COMMUNITY BASED - A SYSTEM WHERE COMMUNITY MEMBERS OWN SHARES IN THE**
45 **SYSTEM, CAN SUBSCRIBE TO RECEIVE SOLAR POWER, CAN PURCHASE THE OUTPUT TO OFFSET**
46 **UTILITY EXPENSES, OR ANY OTHER SYSTEM THAT PRODUCES POWER FOR OFFSITE CONSUMPTION**
47 **SYSTEM THAT IS NOT REGULATED BY THE PUBLIC SERVICE COMMISSION (PSC).**

48 **SOLAR, UTILITY- A SYSTEM WHICH THE PRINCIPAL FUNCTION OF THE LAND IS TO HOST A SYSTEM**
49 **TO PRODUCE POWER FOR OFFSITE CONSUMPTION SUBJECT TO CERTIFICATE OF PUBLIC**
50 **CONVENIENCE AND NECESSITY (CPCN), EXCLUSIVELY DETERMINED BY THE PUBLIC SERVICE**
51 **COMMISSION (PSC) AS REGULATED BY MARYLAND PUBLIC UTILITIES ARTICLE OF THE ANNOTATED**
52 **CODE OF MARYLAND.**

53 **AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND**, that the
54 proposed amendments to Article IV, Section 54.4 (Table of Permissible Users) of the Cecil County Zoning
55 Ordinance are hereby adopted as follows:

- 56 **1. Use description 12.16.000, Non-Solar Generating Facilities (Section 156) are not permitted in**
- 57 **Business-General (BG) zoning.**
- 58 **2. Use description 12.16.100, Solar, Community Based (Section 162), a new use category, is**
- 59 **permissible in Northern Agricultural Residential (NAR), Southern Agricultural Residential (SAR), and Light**
- 60 **Industrial (M1) by special exception with conditions; and is permitted with conditions in Heavy Industrial**
- 61 **(M2) zones.**
- 62 **3. Use description 12.16.200, Solar, Accessory (Section 163), a new use category, is permitted in**
- 63 **Northern Agricultural Residential (NAR), Southern Agricultural Residential (SAR), Rural Residential (RR),**
- 64 **Manufactured Homes (MH), Low Density Residential (LDR), Suburban Transition Residential (ST),**
- 65 **Urbanized Residential (UR), Village Residential (VR), High Density Residential (RM) zoning; and is**
- 66 **permitted with conditions in Residential Mixed Use (RMU), Employment Mixed Use (EMU), Business**
- 67 **Local (BL), Business General (BG), Business Intensive (BI), Maritime Business (MB), Light Industrial (M1),**
- 68 **Heavy Industrial (M2) AND Mineral Extraction A (MEA) zones.**
- 69 **4. Article IV, Section 54.4 (Table of Permissible Uses) may be found in Exhibit A.**

70 **AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND,** that the
 71 proposed amendments to Article IV, Part XII, Section 156 Power Generating Facilities; and proposed
 72 additional Section 162. Solar, Community Based; and proposed additional Section 163. Solar, Accessory of
 73 the Cecil County Zoning Ordinance are hereby adopted as follows:

74 **Section 156. NON SOLAR** Power Generating Facilities (12.16.000)
 75 **NON-SOLAR** power generating facilities may be permitted as a Special Exception in the NAR and SAR zones
 76 provided that the power is generated solely from ~~solar~~; wind or water power sources. ~~Solar power~~
 77 ~~generating facilities may be permitted as a special exception in the BG zone provided the following~~
 78 ~~conditions are met:~~

- 79 ~~1. The minimum parcel size is fifty (50) acres.~~
- 80 ~~2. The solar power generating facility is screened from adjoining residential zones.~~

81 **SECTION 162. SOLAR, COMMUNITY BASED**

82 **A COMMUNITY BASED SOLAR POWER GENERATION FACILITY MAY BE PERMITTED AS A SPECIAL**

83 **EXCEPTION IN THE NORTHERN AGRICULTURAL RESIDENTIAL (NAR), SOUTHERN AGRICULTURAL**
84 **RESIDENTIAL (SAR), AND LIGHT INDUSTRIAL (M1) ZONES AND SHALL BE PERMITTED IN THE HEAVY**
85 **INDUSTRIAL (M2) ZONES PROVIDED:**

- 86 **1. A MAJOR SITE PLAN SHALL BE APPROVED BY THE DEPARTMENT OF LAND USE AND**
87 **DEVELOPMENT SERVICES.**
- 88 **2. SOLAR FACILITIES SHALL BE LOCATED AT LEAST THREE HUNDRED (300) FEET FROM THE EDGE**
89 **OF PAVEMENT OR ROAD RIGHT OF WAY, WHICHEVER IS GREATER, AND ONE HUNDRED**
90 **(100) FEET FROM ALL OTHER PROPERTY LINES.**
- 91 **3. SOLAR FACILITIES SHALL BE LOCATED THREE HUNDRED (300) FEET FROM DWELLINGS ON**
92 **ADJOINING PROPERTIES.**
- 93 **4. PANELS SHALL NOT EXCEED FIFTEEN (15) FEET IN HEIGHT.**
- 94 **5. A BUFFERYARD MEETING THE BUFFERYARD E STANDARD SHALL BE REQUIRED AROUND THE**
95 **SOLAR FACILITY.**
- 96 **6. DECOMMISSIONING PLAN REQUIRED:**
 - 97 **a. THE APPLICANT SHALL SUBMIT, AND HAVE APPROVED, A PLAN FOR**
98 **DECOMMISSIONING AND REMOVAL OF NON-FUNCTIONING SYSTEMS AND TO**
99 **RESTORE THE SITE TO ITS PREVIOUS CONDITION.**
 - 100 **b. A SOLAR FACILITY IS PRESUMED TO BE DISCONTINUED OR ABANDONED IF NO**
101 **ELECTRICITY IS GENERATED BY SUCH SOLAR FACILITY FOR A PERIOD OF TWELVE (12)**
102 **CONTINUOUS MONTHS.**
- 103 **7. BONDING & FINANCIAL SURETY**
 - 104 **a. THE DECOMMISSIONING PLAN SHALL BE ACCOMPANIED BY A COST ESTIMATE**
105 **PREPARED BY A LICENSED PROFESSIONAL ENGINEER, PREFERABLY WITH SOLAR**
106 **DEVELOPMENT EXPERIENCE, FOR THE IMPLEMENTATION OF THE DECOMMISSIONING**
107 **PLAN. THE DEPARTMENT OF LAND USE AND DEVELOPMENT SERVICES MAY REQUEST**
108 **AN UPDATE TO THIS COST ESTIMATE YEARLY.**
 - 109 **b. UPON APPROVAL OF THE PLAN AND COST ESTIMATE, THE DEVELOPER OR OWNER SHALL**
110 **ENTER INTO AN AGREEMENT WITH THE COUNTY TO IMPLEMENT THE**
111 **DECOMMISSIONING PLAN AS REQUIRED. THE AGREEMENT SHALL BE IN A FORM AND**

112 **SUBSTANCE AS APPROVED BY THE DEPARTMENT OF LAND USE AND DEVELOPMENT**
113 **SERVICES AND SHALL BE ACCOMPANIED BY A PERFORMANCE BOND OR OTHER**
114 **APPROVED SURETY EXECUTED BY THE OWNER OR DEVELOPER IN THE AMOUNT OF TWO**
115 **HUNDRED (200) PERCENT OF THE COST ESTIMATE. THE SURETY SHALL:**

- 116 **i. ASSURE THAT THE REMOVAL OF NON-FUNCTIONING SYSTEMS AND**
117 **RESTORATION OF THE SITE IS COMPLETED IN ACCORDANCE WITH THE**
118 **APPROVED DECOMMISSIONING PLAN;**
- 119 **ii. BE PAYABLE TO CECIL COUNTY;**
- 120 **iii. BE ISSUED BY A FINANCIAL INSTITUTION AUTHORIZED TO DO BUSINESS**
121 **IN MARYLAND;**
- 122 **iv. BE EXECUTED PRIOR TO MAJOR SITE PLAN APPROVAL; AND**
- 123 **v. MAY NOT BE CANCELED BY THE SURETY, BANK, OR OTHER ISSUING**
124 **ENTITY UNLESS BOTH OF THE FOLLOWING CONDITIONS ARE**
125 **SATISFIED:**
 - 126 **(1) THE DEPARTMENT OF LAND USE AND DEVELOPMENT SERVICES**
127 **AND THE OBLIGE ARE NOTIFIED IN WRITING BY REGISTERED**
128 **MAIL OF THE INTENT TO CANCEL NOT LESS THAN NINETY (90)**
129 **DAYS PRIOR TO THE CANCELLATION; AND**
 - 130 **(2) AT LEAST FORTY-FIVE (45) DAYS PRIOR TO THE CANCELLATION**
131 **DATE INDICATED IN THE NOTICE, THE OBLIGE FILES A**
132 **COMMITMENT FOR A SURETY, BANK, OR OTHER ISSUING**
133 **ENTITY TO PROVIDE A SUBSTITUTE SECURITY WHICH WILL BE**
134 **EFFECTIVE ON THE CANCELLATION DATE INDICATED IN THE**
135 **NOTICE.**
- 136 **vi. ANY SURETY, BANK, OR OTHER ISSUING ENTITY THAT CANCELS THE**
137 **FINANCIAL SECURITY WITHOUT MEETING THE REQUIREMENTS OF THE**
138 **PREVIOUS SECTION SHALL BE SUBJECT TO PENALTIES AS OUTLINED IN**
139 **ARTICLE XIX OF THIS ORDINANCE.**

140 **8. ADDITIONAL REQUIREMENTS IN THE NORTHERN AGRICULTURAL RESIDENTIAL (NAR) AND SOUTHERN**
141 **AGRICULTURAL RESIDENTIAL (SAR) ZONES:**

- 142 a. THE MINIMUM PARCEL SIZE SHALL BE 50 ACRES.
- 143 b. SOLAR FACILITIES, INCLUDING BUT NOT LIMITED TO SOLAR PANELS, FENCED AREA,
- 144 ACCESS DRIVES, POWER CONVERSION, ETC., SHALL NOT ENCOMPASS MORE THAN 25%
- 145 OF THE SITE.

146 **SECTION 163 SOLAR, ACCESSORY**
 147 **AN ACCESSORY SOLAR POWER GENERATION FACILITY MAY BE PERMITTED IN THE RESIDENTIAL**
 148 **MIXED USE (RMU), EMPLOYMENT MIXED USE (EMU), BUSINESS LOCAL (BL), BUSINESS GENERAL (BG),**
 149 **BUSINESS INTENSIVE (BI), MARITIME BUSINESS (MB), LIGHT INDUSTRIAL (MI), HEAVY INDUSTRIAL (M2) AND**
 150 **MINERAL EXTRACTION A (MEA) ZONES PROVIDED GROUND MOUNTED FACILITIES PROVIDE A**
 151 **BUFFERYARD MEETING THE BUFFERYARD E STANDARD AROUND THE SOLAR FACILITY.**

152 **AND BE IT FURTHER ENACTED** that this Act shall take effect 60 calendar days from the date it
 153 becomes law.

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.

BY: Council Manager