

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

**BILL NO. 2021-13 As Amended**

**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.

BILL NO. 2021-13 As Amended  
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

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 for 2 MW MAY BE PERMITTED AS A  
83 SPECIAL EXCEPTION IN THE NORTHERN AGRICULTURAL RESIDENTIAL (NAR), SOUTHERN  
84 AGRICULTURAL RESIDENTIAL (SAR), AND LIGHT INDUSTRIAL (M1) ZONES AND SHALL BE PERMITTED IN  
85 THE HEAVY INDUSTRIAL (M2) ZONES PROVIDED:

86 1. A MAJOR SITE PLAN SHALL BE APPROVED BY THE DEPARTMENT OF LAND USE AND  
87 DEVELOPMENT SERVICES. Solar community based facility projects that have been approved by the  
88 Cecil County Board of Appeals, prior to the enactment of this legislation, will be exempt from these  
89 regulations.

90 2. A goal of our land use in the 2010 Comprehensive Plan recognizes the importance of the  
91 conservation of agriculture, a more rural lifestyle, and the preservation of scenic views as a  
92 quality of life issue. All Community Based Solar facilities should not be permitted on Class One  
93 Soil Types in the NAR and SAR zones in order to prevent the loss of prime agriculture soil.

94 ~~2.3.~~ SOLAR FACILITIES SHALL BE LOCATED AT LEAST ~~THREE HUNDRED (300)~~ two hundred(200) FEET  
95 FROM THE EDGE OF PAVEMENT OR ROAD RIGHT OF WAY, WHICHEVER IS GREATER, AND  
96 ONE HUNDRED (100) FEET FROM ALL OTHER PROPERTY LINES.

97 ~~3.4.~~ Designs for hookup to grid, transformers, and inverters should be in proximity to utility pole and  
98 located near the center of facility to minimize noise.

99 4.5. SOLAR FACILITIES SHALL BE LOCATED THREE HUNDRED (300) FEET FROM DWELLINGS ON  
100 ADJOINING PROPERTIES. Solar facilities shall be located on a minimum of 50 acre parcel and  
101 can occupy no more than 25% of the site acreage, for example, the facility would be  
102 committed to 12.5 acres on a 50 acre parcel. Applicant can combine two or more contiguous  
103 parcels to achieve 50 acre minimum”

104 4.6. PANELS SHALL NOT EXCEED FIFTEEN (15) FEET IN HEIGHT.

105 ~~5.7. A BUFFERYARD MEETING THE BUFFERYARD E STANDARD SHALL BE REQUIRED AROUND THE~~  
106 ~~SOLAR FACILITY.~~ Bufferyard E Standard shall be required along the perimeter of the project,  
107 unless State or federal regulations provide minimum vegetation clearance distances; and  
108 in such cases, the landscaping requirements shall apply to the extent that  
109 plantings can be installed in conformance with such standards.”

- 110 ~~6~~ 8. Community Based Solar shall be enclosed by a security fence that is located between the  
111 landscape buffer and the Community Based Solar; which must be a minimum height of 6 feet  
112 and suitable to prevent unauthorized access.
- 113 a. The fence shall be constructed to meet any applicable State or Federal regulations and  
114 address the physical security of power system facilities.
- 115 b. Fencing shall be designed and installed to allow for the passage of small wildlife.
- 116 c. The fence shall not be used to display any signage except, as required by law.”

117 ~~7~~ 9. Signage

118 The only signage permitted shall be no larger than 6 square feet, which shall identify the  
119 Community Based Solar operator, the contact phone numbers, and which shall be posted  
120 at each entrance and exit of the property at no less than two locations.”

121 ~~6~~.10. **DECOMMISSIONING PLAN REQUIRED:**

- 122 a. **THE ~~APPLICANT~~ operator and landowner, SHALL SUBMIT, AND HAVE APPROVED, A**  
123 **PLAN FOR DECOMMISSIONING AND REMOVAL OF NON-FUNCTIONING SYSTEMS AND**  
124 **TO RESTORE THE SITE TO ITS PREVIOUS CONDITION, including yearly soil tests, at the**  
125 **expense of the operator or landowner.**
- 126 b. **A newly built solar facility shall be reviewed after six months of operation.**
- 127 c. **A SOLAR FACILITY IS PRESUMED TO BE DISCONTINUED OR ABANDONED IF NO**  
128 **ELECTRICITY IS GENERATED BY SUCH SOLAR FACILITY FOR A PERIOD OF TWELVE (12)**  
129 **CONTINUOUS MONTHS.**

130 ~~7~~. 11. **BONDING & FINANCIAL SURETY**

- 131 a. **THE DECOMMISSIONING PLAN SHALL BE ACCOMPANIED BY A COST ESTIMATE**  
132 **PREPARED BY A LICENSED PROFESSIONAL ENGINEER, PREFERABLY WITH SOLAR**  
133 **DEVELOPMENT EXPERIENCE, FOR THE IMPLEMENTATION OF THE DECOMMISSIONING**  
134 **PLAN.**
- 135 b. **THE DEPARTMENT OF LAND USE AND DEVELOPMENT SERVICES shall REQUEST AN**  
136 **UPDATE TO THIS COST ESTIMATE YEARLY, but must be reviewed every five years.**
- 137 c. **UPON APPROVAL OF THE PLAN AND COST ESTIMATE, THE DEVELOPER OR OWNER SHALL**  
138 **ENTER INTO AN AGREEMENT WITH THE COUNTY TO IMPLEMENT THE**

139 DECOMMISSIONING PLAN AS REQUIRED. THE AGREEMENT SHALL BE IN A FORM AND  
140 SUBSTANCE AS APPROVED BY THE DEPARTMENT OF LAND USE AND DEVELOPMENT  
141 SERVICES AND SHALL BE ACCOMPANIED BY A PERFORMANCE BOND OR OTHER  
142 APPROVED SURETY EXECUTED BY THE OWNER OR DEVELOPER IN THE AMOUNT OF TWO  
143 HUNDRED (200) PERCENT OF THE COST ESTIMATE. THE SURETY SHALL:

- 144 i. ASSURE THAT THE REMOVAL OF NON-FUNCTIONING SYSTEMS AND  
145 RESTORATION OF THE SITE IS COMPLETED IN ACCORDANCE WITH THE  
146 APPROVED DECOMMISSIONING PLAN;
- 147 ii. BE PAYABLE TO CECIL COUNTY;
- 148 iii. BE ISSUED BY A FINANCIAL INSTITUTION AUTHORIZED TO DO BUSINESS  
149 IN MARYLAND;
- 150 iv. BE EXECUTED PRIOR TO MAJOR SITE PLAN APPROVAL; AND
- 151 v. MAY NOT BE CANCELED BY THE SURETY, BANK, OR OTHER ISSUING  
152 ENTITY UNLESS BOTH OF THE FOLLOWING CONDITIONS ARE  
153 SATISFIED:
  - 154 (1) THE DEPARTMENT OF LAND USE AND DEVELOPMENT SERVICES  
155 AND THE OBLIGE ARE NOTIFIED IN WRITING BY REGISTERED  
156 MAIL OF THE INTENT TO CANCEL NOT LESS THAN NINETY (90)  
157 DAYS PRIOR TO THE CANCELLATION; AND
  - 158 (2) AT LEAST FORTY-FIVE (45) DAYS PRIOR TO THE CANCELLATION  
159 DATE INDICATED IN THE NOTICE, THE OBLIGE FILES A  
160 COMMITMENT FOR A SURETY, BANK, OR OTHER ISSUING  
161 ENTITY TO PROVIDE A SUBSTITUTE SECURITY WHICH WILL BE  
162 EFFECTIVE ON THE CANCELLATION DATE INDICATED IN THE  
163 NOTICE.
- 164 vi. ANY SURETY, BANK, OR OTHER ISSUING ENTITY THAT CANCELS THE  
165 FINANCIAL SECURITY WITHOUT MEETING THE REQUIREMENTS OF THE  
166 PREVIOUS SECTION SHALL BE SUBJECT TO PENALTIES AS OUTLINED IN  
167 ARTICLE XIX OF THIS ORDINANCE.

168 **§. 12. ADDITIONAL REQUIREMENTS IN THE NORTHERN AGRICULTURAL RESIDENTIAL (NAR) AND**  
169 **SOUTHERN AGRICULTURAL RESIDENTIAL (SAR) ZONES:**

170 a. **THE MINIMUM PARCEL SIZE SHALL BE 50 ACRES.**

171 b. As a condition of special exception approval, the owner and/or operator agree to allow entry  
172 to remove an abandoned or decommissioned Community Based Solar Facility. Soil conditions  
173 must be returned to their original base in Northern Agricultural Residential and Southern  
174 Agricultural Residential zones. Community Based Solar must be reassessed for taxation  
175 purposes every three years.

176 ~~b.c.~~ **SOLAR FACILITIES, INCLUDING BUT NOT LIMITED TO SOLAR PANELS, FENCED AREA,**  
177 **ACCESS DRIVES, POWER CONVERSION, ETC., SHALL NOT ENCOMPASS MORE THAN 25%**  
178 **OF THE SITE.**

179 **SECTION 163 SOLAR, ACCESSORY**

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

185 **AND BE IT FURTHER ENACTED** that this Act shall take effect 60 calendar days from the date it  
186 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