

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 3

Bill No. 9-17

Councilmembers Kach & Marks

By the County Council, February 6, 2017

A BILL
ENTITLED

AN ACT concerning

Solar Facilities

FOR the purpose of permitting a Solar Facility to be located in certain zones of the County by special exception; defining terms; providing for the requirements for a facility; providing for a required security; providing for the maintenance, abandonment, and removal of a facility; authorizing the Code Official to enforce the provisions of this Act; providing exceptions; providing for the application of the Act; and generally relating to Solar Facilities.

BY adding
Article 4E – Solar Facilities
Sections 4E-101 to 4E-107
Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.
 ~~Strike out~~ indicates matter stricken from bill.
 Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments
Article 5 – Administration and Enforcement
Section 502.1.I.
Baltimore County Zoning Regulations, as amended

WHEREAS, solar energy is recognized as an abundant, renewable, and environmentally sustainable source of electricity generation that will lead to greater local grid resiliency and security, as well as produce clean, renewable energy and reduce air and water pollution caused by the burning of traditional fossil fuels, and will thereby reduce greenhouse gases that cause climate change; and

WHEREAS, Baltimore County law does not currently regulate solar facilities or any form of commercial enterprise that places solar energy systems or solar collector panels on a parcel of land for the purpose of generating photovoltaic power; and

WHEREAS, the Baltimore County Master Plan 2020 recognizes that the rural portion of the County provides high quality drinking water, agricultural products, timber, scenic open space, wildlife habitat, fisheries, recreation, water sports, and cultural and historic resources; and

WHEREAS, Baltimore County’s Rural Land Management Areas are designed to protect resources and rural economies while permitting limited development; and

WHEREAS, the benefits of solar energy production and location must be balanced with the potential impact of solar energy-producing facilities upon the County’s land use policies, particularly in resource conservation zones, as well as in business and manufacturing zones; and

WHEREAS, the County Council believes that Solar Facilities should be permitted in some parts of the County’s rural and commercial areas so long as sufficient safeguards are provided to protect the County’s communities and its agricultural land, forests, waterways and other natural resources; now, therefore

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Baltimore County Zoning Regulations read as follows:

3
4 ARTICLE 4E
5 SOLAR FACILITIES

6 §4E-101. DEFINITION.

7 (A) AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE
8 MEANINGS INDICATED.

9 (B) “SOLAR FACILITY” MEANS A FACILITY THAT INCLUDES A SERIES OF
10 ONE OR MORE SOLAR COLLECTOR PANELS OR SOLAR ENERGY SYSTEMS THAT
11 ARE PLACED IN AN AREA ON A TRACT OF LAND FOR THE PURPOSE OF
12 GENERATING PHOTOVOLTAIC POWER FOR COMMERCIAL USE. THE TERM
13 INCLUDES A SOLAR POWER PLANT OR SOLAR PHOTOVOLTAIC FARM.
14 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SOLAR FACILITY MAY
15 NOT BE CONSIDERED A PUBLIC UTILITY UNDER THE BALTIMORE COUNTY CODE
16 OR THE BALTIMORE COUNTY ZONING REGULATIONS.

17 (C) “COMMERCIAL USE” MEANS THE TRANSFER TO THE ELECTRICAL
18 POWER GRID OF ENERGY PRODUCED BY A SOLAR FACILITY FOR ENERGY CREDITS
19 TO CONSUMERS.

20
21 §4E-102. LOCATION OF SOLAR FACILITIES.

22 A SOLAR FACILITY IS PERMITTED ONLY BY SPECIAL EXCEPTION IN THE

1 R.C.2, R.C.3, R.C.4, R.C.5, R.C.6, R.C.7, R.C.8, B.L., B.M., M.R., M.L.R., AND M.H. ZONES
2 OF THE COUNTY.

3

4 §4E-103. EXCEPTION.

5 THIS ARTICLE DOES NOT APPLY TO:

6 1. A SOLAR FACILITY LOCATED IN A YARD AREA, BUILDING, OR
7 STRUCTURE THAT IS ACCESSORY TO A PRINCIPAL RESIDENTIAL,
8 AGRICULTURAL, COMMERCIAL OR INSTITUTIONAL USE;

9 2. A SOLAR FACILITY ON FEDERAL, STATE OR LOCAL
10 GOVERNMENT-OWNED OR LEASED LAND THAT PRODUCES ENERGY FOR
11 GOVERNMENT USE; OR

12 3. A SOLAR FACILITY THAT USES AT LEAST 75% OF THE ENERGY
13 GENERATED FOR AGRICULTURAL USES.

14

15 §4E-104. REQUIREMENTS.

16 A. A SOLAR FACILITY LOCATED IN AN R.C. ZONE IS SUBJECT TO THE
17 FOLLOWING REQUIREMENTS:

18 1. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED MAY NOT BE
19 ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT, AN
20 ENVIRONMENTAL PRESERVATION EASEMENT, OR A RURAL LEGACY EASEMENT.

21 2. THE LAND ON WHICH A SOLAR FACILITY IS PROPOSED MAY NOT BE
22 LOCATED IN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A PROPERTY
23 THAT IS LISTED ON THE BALTIMORE COUNTY FINAL LANDMARKS LIST.

1 3. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED
2 MAY NOT BE LOCATED IN A FOREST CONSERVATION EASEMENT, A FOREST AS
3 DEFINED IN SECTION 33-6-101(O) OF THE COUNTY CODE, OR A DESIGNATED
4 CONSERVANCY AREA IN AN R.C.4 OR R.C.6 ZONE.

5 4. THE MAXIMUM SIZE OF A SOLAR FACILITY AS MEASURED FROM THE
6 PERIMETER OF THE FACILITY IS:

7 A. 30 ACRES UNTIL JUNE 30, 2018; AND

8 B. 40 ACRES BEGINNING ON JULY 1, 2018.

9 5. ABOVEGROUND COMPONENTS OF THE SOLAR FACILITY, INCLUDING
10 SOLAR COLLECTOR PANELS, INVERTERS, AND SIMILAR EQUIPMENT, MUST BE
11 SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY, SUBJECT TO
12 THE FOLLOWING:

13 A. THIS SETBACK DOES NOT APPLY TO THE INSTALLATION OF THE
14 ASSOCIATED LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES;
15 AND

16 B. THE ADMINISTRATIVE LAW JUDGE, OR BOARD OF APPEALS ON
17 APPEAL, MAY INCREASE THE SETBACK BY UP TO 25 FEET BASED ON THE IMPACT
18 OF THE STRUCTURES ON ADJACENT OR SURROUNDING RESIDENTIALLY USED
19 PROPERTIES, AND MAY DECREASE THE SETBACK BY UP TO 25 FEET IF LOCATED
20 NEAR A FOREST OR OTHER SUFFICIENT BUFFER.

21 6. A STRUCTURE MAY NOT EXCEED 16 FEET IN HEIGHT.

22 7. A LANDSCAPING BUFFER SHALL BE PROVIDED AROUND THE
23 PERIMETER OF ANY PORTION OF A SOLAR FACILITY THAT IS VISIBLE FROM AN

1 ADJACENT RESIDENTIALLY USED PROPERTY OR A PUBLIC STREET. SCREENING
2 OF STATE AND LOCAL SCENIC ROUTES AND SCENIC VIEWS IS REQUIRED IN
3 ACCORDANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL.

4 8. SECURITY FENCING SHALL BE PROVIDED BETWEEN THE LANDSCAPING
5 BUFFER AND THE SOLAR FACILITY.

6 9. A SOLAR COLLECTOR PANEL OR COMBINATION OF SOLAR COLLECTOR
7 PANELS SHALL BE DESIGNED AND LOCATED IN AN ARRANGEMENT THAT
8 MINIMIZES GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND
9 ADJACENT ROADWAYS, AND DOES NOT INTERFERE WITH TRAFFIC OR CREATE A
10 SAFETY HAZARD.

11 10. A PETITIONER SHALL COMPLY WITH THE PLAN REQUIREMENTS OF
12 SECTION 33-3-108 OF THE COUNTY CODE.

13 11. AT LEAST 60 DAYS PRIOR TO THE PUBLIC HEARING ON THE SPECIAL
14 EXCEPTION, THE PETITIONER SHALL SEND NOTICE VIA CERTIFIED MAIL, RETURN
15 RECEIPT REQUESTED, TO ADJOINING PROPERTY OWNERS AND COMMUNITY
16 ASSOCIATIONS OF THE ADDRESS OF THE PROPERTY UNDER PETITION OR, IF NOT
17 AVAILABLE, A DESCRIPTION OF THE PROPERTY, THE ACTION REQUESTED BY
18 THE PETITION, AND THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.

19 12. IN THE R.C.2, R.C.6, R.C.7, AND R.C.8 ZONE, A PETITIONER SHALL
20 DEMONSTRATE AT A HEARING THAT MEASURES ARE BEING TAKEN AT THE
21 LOCATION OF THE SOLAR FACILITY TO MINIMIZE THE IMPACTS OF THE
22 FACILITY ON PRIME AND PRODUCTIVE AGRICULTURAL SOIL.

23 13. IN GRANTING A SPECIAL EXCEPTION, THE ADMINISTRATIVE LAW

1 JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY IMPOSE CONDITIONS OR
2 RESTRICTIONS ON THE SOLAR FACILITY USE AS NECESSARY TO PROTECT THE
3 ENVIRONMENT AND SCENIC VIEWS, AND TO LESSEN THE IMPACT OF THE
4 FACILITY ON THE HEALTH, SAFETY, AND GENERAL WELFARE OF SURROUNDING
5 RESIDENTIALLY USED PROPERTIES AND COMMUNITIES.

6 B. THE REQUIREMENTS OF SUBPARAGRAPHS A.5, A.7. AND A.8. OF THIS SECTION
7 SHALL APPLY TO A SOLAR FACILITY LOCATED IN A BUSINESS OR
8 MANUFACTURING ZONE.

9

10 § 4E-105. SECURITY BOND.

11 A. AN APPLICANT FOR A BUILDING PERMIT FOR A SOLAR FACILITY SHALL
12 PROVIDE A SECURITY BOND IN THE FORM AND AMOUNT DETERMINED BY THE
13 COUNTY ADMINISTRATIVE OFFICER.

14 B. THE CODE OFFICIAL MAY USE THE BOND TO PROCURE THE REPAIR OF ANY
15 UNSAFE OR HAZARDOUS CONDITIONS UNDER SECTION 4E-106 OR REMOVAL OF A
16 SOLAR FACILITY UNDER SECTION 4E-107, IN ACCORDANCE WITH SECTION 3-6-402
17 OF THE COUNTY CODE.

18

19 §4E-106. MAINTENANCE.

20 A. ALL PARTIES HAVING A LEASE OR OWNERSHIP INTEREST IN A SOLAR
21 FACILITY ARE RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITY.

22 B. MAINTENANCE SHALL INCLUDE PAINTING, STRUCTURAL REPAIRS,
23 LANDSCAPE BUFFERS AND VEGETATION UNDER AND AROUND SOLAR PANEL

1 STRUCTURES, AND INTEGRITY OF SECURITY MEASURES. ACCESS TO THE
2 FACILITY SHALL BE MAINTAINED IN A MANNER ACCEPTABLE TO THE FIRE
3 DEPARTMENT. THE OWNER, OPERATOR, OR LESSEE ARE RESPONSIBLE FOR THE
4 COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.

5 C. APPROPRIATE VEGETATION IS PERMITTED UNDER AND AROUND THE SOLAR
6 COLLECTOR PANELS, AND THE TRACT MAY BE USED FOR ACCESSORY
7 AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK, APICULTURE,
8 AND SIMILAR USES.

9 D. THE PROVISIONS OF THIS SECTION SHALL BE ENFORCED IN ACCORDANCE
10 WITH ARTICLE 3, TITLE 6 OF THE COUNTY CODE.

11
12 §4E-107. ABANDONMENT; REMOVAL.

13 A. A SOLAR FACILITY THAT HAS REACHED THE END OF ITS USEFUL LIFE OR HAS
14 BEEN ABANDONED SHALL BE REMOVED. THE OWNER OR OPERATOR SHALL
15 PHYSICALLY REMOVE THE INSTALLATION NO MORE THAN 150 DAYS AFTER THE
16 DATE OF DISCONTINUED OPERATIONS. THE OWNER OR OPERATOR SHALL
17 NOTIFY THE COUNTY BY CERTIFIED MAIL OF THE PROPOSED DATE OF
18 DISCONTINUED OPERATIONS AND PLANS FOR REMOVAL.

19 B. REMOVAL SHALL CONSIST OF THE:

- 20 1. PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS, STRUCTURES,
21 EQUIPMENT, SECURITY BARRIERS AND TRANSMISSION LINES FROM THE SITE;
- 22 2. DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE
23 WITH LOCAL, STATE, AND FEDERAL WASTE DISPOSAL REGULATIONS; AND

1 3. STABILIZATION OR RE-VEGETATION OF THE SITE AS NECESSARY TO
2 MINIMIZE EROSION.

3 C. IF THE OWNER OR OPERATOR FAIL TO REMOVE THE FACILITY WITHIN 150
4 DAYS OF ABANDONMENT, THE COUNTY RETAINS THE RIGHT TO ENTER AND
5 REMOVE THE FACILITY. AS A CONDITION OF SPECIAL EXCEPTION APPROVAL,
6 THE PETITIONER AND LANDOWNER AGREE TO ALLOW ENTRY TO REMOVE AN
7 ABANDONED FACILITY.

8 D. THE CODE OFFICIAL MAY ISSUE A CITATION TO THE OWNER OR OPERATOR
9 FOR REMOVAL OF A SOLAR FACILITY IF:

10 1. THE CODE OFFICIAL DETERMINES THAT THE SOLAR FACILITY HAS NOT
11 BEEN IN ACTUAL AND CONTINUOUS USE FOR 12 CONSECUTIVE MONTHS;

12 2. THE OWNER OR OPERATOR FAILED TO CORRECT AN UNSAFE OR
13 HAZARDOUS CONDITION OR FAILED TO MAINTAIN THE SOLAR FACILITY UNDER
14 SECTION 4E-106 WITHIN THE TIME PRESCRIBED IN A CORRECTION NOTICE
15 ISSUED BY THE CODE OFFICIAL; OR

16 3. THE OWNER OR OPERATOR HAS FAILED TO REMOVE THE SOLAR
17 FACILITY IN ACCORDANCE WITH PARAGRAPH C.

18

19 §502.1. Conditions Determining Granting of Special Exception.

20 Before any special exception may be granted, it must appear that the use for which the special
21 exception is requested will not:

22 I. Be detrimental to the environment and natural resources of the site and vicinity including
23 forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5, or R.C.7 Zone,

1 AND FOR CONSIDERATION OF A SOLAR FACILITY USE UNDER ARTICLE 4E, THE
2 INCLUSION OF THE R.C.3, R.C.6, AND R.C.8 ZONE.

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4 SECTION 2. AND BE IT FURTHER ENACTED, that the Maryland General Assembly
5 is urged to consider legislation to authorize Baltimore County to exempt solar facility equipment
6 located as an accessory use on buildings or parking facilities from personal property taxation.

7

8 SECTION 3. AND BE IT FURTHER ENACTED, that the Departments of Planning and
9 Environmental Protection and Sustainability shall by March 1, 2018 submit recommendations to
10 the County Council in regard to the appropriate size of a solar facility in the R.C. Zones, and any
11 other changes to the solar facility regulations that those Departments deem appropriate.

12

13 SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by
14 the affirmative vote of five members of the County Council, shall take effect on March 20, 2017
15 and shall apply retroactively to any zoning petition filed after October 18, 2016, except that the
16 requirements of subparagraphs A.3, A.5, A.7, A.8, and A.13 of Section 4E-104 shall apply
17 retroactively to any zoning petition filed after July 1, 2016.