

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 11

Bill No. 37-17

Mrs. Vicki Almond, Councilwoman

By the County Council, June 5, 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; providing for a statement of purpose and defining terms; providing exceptions; 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 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

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

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4

ARTICLE 4E

5

SOLAR FACILITIES

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§4E-101. PURPOSE AND DEFINITIONS.

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§4E-101.1. PURPOSE.

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SOLAR ENERGY IS RECOGNIZED AS AN ABUNDANT, RENEWABLE, AND

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ENVIRONMENTALLY SUSTAINABLE SOURCE OF ELECTRICITY GENERATION THAT

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WILL LEAD TO GREATER LOCAL GRID RESILIENCY AND SECURITY, AND PRODUCE

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CLEAN, RENEWABLE ENERGY AND REDUCE AIR AND WATER POLLUTION CAUSED

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BY THE BURNING OF TRADITIONAL FOSSIL FUELS. THE PURPOSE AND INTENT OF

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THIS ARTICLE IS TO PERMIT SOLAR FACILITIES IN PARTS OF THE RURAL AND

14

COMMERCIAL AREAS OF THE COUNTY BY SPECIAL EXCEPTION, AND TO BALANCE

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THE BENEFITS OF SOLAR ENERGY PRODUCTION WITH ITS POTENTIAL IMPACT

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UPON THE COUNTY'S LAND USE POLICIES BY ENSURING SUFFICIENT

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SAFEGUARDS ARE IN PLACE TO PROTECT THE COUNTY'S COMMUNITIES AND ITS

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AGRICULTURAL LAND, FORESTS, WATERWAYS AND OTHER NATURAL

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RESOURCES.

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1 §4E-101.2. DEFINITIONS.

2 AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE MEANINGS
3 INDICATED:

4 A. "SOLAR FACILITY" MEANS A FACILITY THAT INCLUDES A SERIES OF ONE OR
5 MORE SOLAR COLLECTOR PANELS OR SOLAR ENERGY SYSTEMS THAT ARE
6 PLACED IN AN AREA ON A TRACT OF LAND FOR THE PURPOSE OF GENERATING
7 PHOTOVOLTAIC POWER FOR COMMERCIAL USE. THE TERM INCLUDES A SOLAR
8 POWER PLANT OR SOLAR PHOTOVOLTAIC FARM.

9 B. "COMMERCIAL USE" MEANS THE TRANSFER TO THE ELECTRICAL POWER GRID
10 OF ENERGY PRODUCED BY A SOLAR FACILITY FOR SALE BY ENERGY SUPPLIERS
11 TO CONSUMERS.

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13 §4E-102. LOCATION OF SOLAR FACILITIES.

14 A. SUBJECT TO PARAGRAPH B, A SOLAR FACILITY IS PERMITTED ONLY BY
15 SPECIAL EXCEPTION IN THE 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.,
16 M.R., M.L.R., AND M.H. ZONES OF THE COUNTY.

17 B. THE ALLOCATION OF LAND FOR SOLAR FACILITIES IN THE COUNTY IS
18 LIMITED TO THE FOLLOWING:

19 1. THE MAXIMUM AREA PERMITTED FOR A SINGLE SOLAR FACILITY IS
20 THE AMOUNT OF ACREAGE THAT PRODUCES NO MORE THAN TWO MEGAWATTS
21 ALTERNATING CURRENT (AC) OF ELECTRICITY.

22 2. NO MORE THAN TEN (10) SOLAR FACILITIES MAY LOCATED IN A
23 COUNCILMANIC DISTRICT.

1 3. THE DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS SHALL
2 MAINTAIN A RECORD OF ALL PERMITS ISSUED FOR A SOLAR FACILITY IN THE
3 COUNTY, INCLUDING THE LOCATION AND COUNCILMANIC DISTRICT FOR EACH
4 SUCH FACILITY, AND SHALL KEEP A CURRENT ACCOUNTING OF THE NUMBER OF
5 FACILITIES IN EACH COUNCILMANIC DISTRICT UNDER THIS PARAGRAPH.

6 4. UPON REACHING THE THRESHOLD OF TEN (10) SOLAR FACILITIES IN A
7 COUNCILMANIC DISTRICT, NO ADDITIONAL PERMITS SHALL BE ISSUED FOR A
8 SOLAR FACILITY IN THAT DISTRICT UNLESS AN EXISTING FACILITY PREVIOUSLY
9 APPROVED UNDER THIS ARTICLE HAS BEEN REMOVED PURSUANT TO SECTION 4E-
10 107.

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12 §4E-103. EXCEPTION.

13 THIS ARTICLE DOES NOT APPLY TO:

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

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

19 3. A SOLAR FACILITY THAT USES AT LEAST 66% OF THE ENERGY
20 GENERATED BY THE FACILITY FOR AGRICULTURAL USES.

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22 §4E-104. REQUIREMENTS.

23 A. A SOLAR FACILITY LOCATED IN AN R.C. ZONE IS SUBJECT TO THE

1 FOLLOWING REQUIREMENTS:

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

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

8 3. THE PORTION OF LAND ON WHICH A SOLAR FACILITY IS PROPOSED
9 MAY NOT BE IN A FOREST CONSERVATION EASEMENT, OR BE IN A DESIGNATED
10 CONSERVANCY AREA IN AN R.C.4 OR R.C.6 ZONE.

11 4. ABOVEGROUND COMPONENTS OF THE SOLAR FACILITY, INCLUDING
12 SOLAR COLLECTOR PANELS, INVERTERS, AND SIMILAR EQUIPMENT, MUST BE
13 SET BACK A MINIMUM OF 50 FEET FROM THE TRACT BOUNDARY. THIS
14 SETBACK DOES NOT APPLY TO THE INSTALLATION OF THE ASSOCIATED
15 LANDSCAPING, SECURITY FENCING, WIRING, OR POWER LINES.

16 5. A STRUCTURE MAY NOT EXCEED 20 FEET IN HEIGHT.

17 6. A LANDSCAPING BUFFER SHALL BE PROVIDED AROUND THE
18 PERIMETER OF ANY PORTION OF A SOLAR FACILITY THAT IS VISABLE FROM AN
19 ADJACENT RESIDENTIALLY USED PROPERTY OR A PUBLIC STREET. SCREENING
20 OF STATE AND LOCAL SCENIC ROUTES AND SCENIC VIEWS IS REQUIRED IN
21 ACCORDANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL.

22 7. SECURITY FENCING SHALL BE PROVIDED BETWEEN THE LANDSCAPING
23 BUFFER AND THE SOLAR FACILITY.

1 8. A SOLAR COLLECTOR PANEL OR COMBINATION OF SOLAR COLLECTOR
2 PANELS SHALL BE DESIGNED AND LOCATED IN AN ARRANGEMENT THAT
3 MINIMIZES GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND
4 ADJACENT ROADWAYS, AND DOES NOT INTERFERE WITH TRAFFIC OR CREATE A
5 SAFETY HAZARD.

6 9. A PETITIONER SHALL COMPLY WITH THE PLAN REQUIREMENTS OF
7 SECTION 33-3-108 OF THE COUNTY CODE.

8 10. IN GRANTING A SPECIAL EXCEPTION, THE ADMINISTRATIVE LAW
9 JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY IMPOSE CONDITIONS OR
10 RESTRICTIONS ON THE SOLAR FACILITY USE AS NECESSARY TO PROTECT THE
11 ENVIRONMENT AND SCENIC VIEWS, AND TO LESSEN THE IMPACT OF THE
12 FACILITY ON THE HEALTH, SAFETY, AND GENERAL WELFARE OF SURROUNDING
13 RESIDENTIAL PROPERTIES AND COMMUNITIES, TAKING INTO ACCOUNT SUCH
14 FACTORS AS THE TOPOGRAPHY OF ADJACENT LAND, THE PRESENCE OF
15 NATURAL FOREST BUFFERS, AND PROXIMITY OF STREAMS AND WETLANDS.

16 B. THE REQUIREMENTS OF SUBPARAGRAPHS A.6, A.7, A.8 AND A.10 SHALL
17 APPLY TO A SOLAR FACILITY LOCATED IN A BUSINESS OR MANUFACTURING
18 ZONE.

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20 § 4E-105. REQUIRED SECURITY.

21 A. AN APPLICANT FOR A BUILDING PERMIT FOR A SOLAR FACILITY SHALL
22 PROVIDE A SECURITY BOND OR EQUIVALENT FINANCIAL SECURITY IN THE FORM
23 AND AMOUNT DETERMINED BY THE COUNTY ADMINISTRATIVE OFFICER.

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

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6 §4E-106. MAINTENANCE.

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

9 B. MAINTENANCE SHALL INCLUDE PAINTING, STRUCTURAL REPAIRS,
10 LANDSCAPE BUFFERS AND VEGETATION UNDER AND AROUND SOLAR PANEL
11 STRUCTURES, AND INTEGRITY OF SECURITY MEASURES. ACCESS TO THE
12 FACILITY SHALL BE MAINTAINED IN A MANNER ACCEPTABLE TO THE FIRE
13 DEPARTMENT. THE OWNER, OPERATOR, OR LESSEE ARE RESPONSIBLE FOR THE
14 COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.

15 C. APPROPRIATE VEGETATION IS PERMITTED UNDER AND AROUND THE SOLAR
16 COLLECTOR PANELS, AND THE TRACT MAY BE USED FOR ACCESSORY
17 AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK, APICULTURE,
18 AND SIMILAR USES.

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

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22 §4E-107. ABANDONMENT; REMOVAL.

23 A. A SOLAR FACILITY THAT HAS REACHED THE END OF ITS USEFUL LIFE OR HAS

1 BEEN ABANDONED SHALL BE REMOVED. THE OWNER OR OPERATOR SHALL
2 PHYSICALLY REMOVE THE INSTALLATION NO MORE THAN 150 DAYS AFTER THE
3 DATE OF DISCONTINUED OPERATIONS. THE OWNER OR OPERATOR SHALL
4 NOTIFY THE COUNTY BY CERTIFIED MAIL OF THE PROPOSED DATE OF
5 DISCONTINUED OPERATIONS AND PLANS FOR REMOVAL.

6 B. REMOVAL SHALL CONSIST OF THE:

7 1. PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS, STRUCTURES,
8 EQUIPMENT, SECURITY BARRIERS AND TRANSMISSION LINES FROM THE SITE;

9 2. DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE
10 WITH LOCAL, STATE, AND FEDERAL WASTE DISPOSAL REGULATIONS; AND

11 3. STABILIZATION OR RE-VEGETATION OF THE SITE AS NECESSARY TO
12 MINIMIZE EROSION.

13 C. IF THE OWNER OR OPERATOR FAIL TO REMOVE THE FACILITY WITHIN 150
14 DAYS OF ABANDONMENT, THE COUNTY RETAINS THE RIGHT TO ENTER AND
15 REMOVE THE FACILITY. AS A CONDITION OF SPECIAL EXCEPTION APPROVAL,
16 THE PETITIONER AND LANDOWNER AGREE TO ALLOW ENTRY TO REMOVE AN
17 ABANDONED FACILITY.

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

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

22 2. THE OWNER OR OPERATOR FAILED TO CORRECT AN UNSAFE OR
23 HAZARDOUS CONDITION OR FAILED TO MAINTAIN THE SOLAR FACILITY UNDER

1 SECTION 4E-106 WITHIN THE TIME PRESCRIBED IN A CORRECTION NOTICE
2 ISSUED BY THE CODE OFFICIAL; OR

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

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6 §502.1. Conditions Determining Granting of Special Exception.

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

9 I. Be detrimental to the environment and natural resources of the site and vicinity including
10 forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5, or R.C.7 Zone,
11 AND FOR CONSIDERATION OF A SOLAR FACILITY USE UNDER ARTICLE 4E, THE
12 INCLUSION OF THE R.C.3, R.C.6, AND R.C.8 ZONE.

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14 SECTION 2. AND BE IT FURTHER ENACTED, that the Planning Board shall, in
15 consultation with the Departments of Planning and Environmental Protection and Sustainability,
16 and with participation of the Baltimore County Commission on Environmental Quality,
17 representatives of the Solar Industry, the Sierra Club's Greater Baltimore Group, and the Valleys
18 Planning Council, study and evaluate the impact of Solar Facilities in Baltimore County and the
19 effect of Article 4E of these Regulations, and by July 1, 2018 submit recommendations to the
20 County Council and the County Executive regarding potential changes to current law.

21 SECTION 3. AND BE IT FURTHER ENACTED, that this Act, having been passed by
22 the affirmative vote of five members of the County Council, shall take effect on July 17, 2017 and
23 shall apply retroactively to any zoning petition filed after October 18, 2016.