

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

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

ARTICLE 4E

SOLAR FACILITIES

§4E-101. PURPOSE AND DEFINITIONS.

§4E-101.1. PURPOSE.

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, AND PRODUCE
CLEAN, RENEWABLE ENERGY AND REDUCE AIR AND WATER POLLUTION CAUSED
BY THE BURNING OF TRADITIONAL FOSSIL FUELS. THE PURPOSE AND INTENT OF
THIS ARTICLE IS TO PERMIT SOLAR FACILITIES IN PARTS OF THE RURAL AND
COMMERCIAL AREAS OF THE COUNTY BY SPECIAL EXCEPTION, AND TO BALANCE
THE BENEFITS OF SOLAR ENERGY PRODUCTION WITH ITS POTENTIAL IMPACT
UPON THE COUNTY'S LAND USE POLICIES BY ENSURING SUFFICIENT
SAFEGUARDS ARE IN PLACE TO PROTECT THE COUNTY'S COMMUNITIES AND ITS
AGRICULTURAL LAND, FORESTS, WATERWAYS AND OTHER NATURAL
RESOURCES.

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.

12
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 BE 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.

11
12 §4E-103. EXCEPTION.

13 THIS ARTICLE DOES NOT APPLY TO THE FOLLOWING SOLAR FACILITY
14 INSTALLATIONS:

15 1. A GROUND-MOUNTED SOLAR FACILITY ~~LOCATED IN A YARD AREA,~~
16 ~~BUILDING, OR STRUCTURE THAT IS ACCESSORY TO A PRINCIPAL RESIDENTIAL,~~
17 ~~AGRICULTURAL, COMMERCIAL OR INSTITUTIONAL USE~~ THAT IS ACCESSORY TO
18 A PRINCIPAL RESIDENTIAL OR AGRICULTURAL USE (SUBJECT TO SECTIONS 400.1
19 AND 400.2 OF THESE REGULATIONS APPLICABLE TO ACCESSORY BUILDINGS), OR
20 ACCESSORY TO A PRINCIPAL COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL
21 USE;

22 2. A ROOFTOP SOLAR FACILITY;
23

1 ~~2~~ 3. A SOLAR FACILITY ON FEDERAL, STATE OR LOCAL GOVERNMENT-
2 OWNED OR LEASED LAND THAT PRODUCES ENERGY FOR GOVERNMENT USE; OR

3 ~~3~~ 4. A SOLAR FACILITY LOCATED ON THE SAME PROPERTY OR TRACT AS
4 A FARM THAT USES AT LEAST 66% OF THE ENERGY GENERATED BY THE
5 FACILITY FOR AGRICULTURAL USES ON THE FARM.

6
7 §4E-104. REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

16 10. IN GRANTING A SPECIAL EXCEPTION, THE ADMINISTRATIVE LAW
17 JUDGE, OR BOARD OF APPEALS ON APPEAL, MAY IMPOSE CONDITIONS OR
18 RESTRICTIONS ON THE SOLAR FACILITY USE AS NECESSARY TO PROTECT THE
19 ENVIRONMENT AND SCENIC VIEWS, AND TO LESSEN THE IMPACT OF THE
20 FACILITY ON THE HEALTH, SAFETY, AND GENERAL WELFARE OF SURROUNDING
21 RESIDENTIAL PROPERTIES AND COMMUNITIES, TAKING INTO ACCOUNT SUCH
22 FACTORS AS THE TOPOGRAPHY OF ADJACENT LAND, THE PRESENCE OF
23 NATURAL FOREST BUFFERS, AND PROXIMITY OF STREAMS AND WETLANDS.

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

4
5 § 4E-105. REQUIRED SECURITY.

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

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

13
14 §4E-106. MAINTENANCE.

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

17 B. MAINTENANCE SHALL INCLUDE PAINTING, STRUCTURAL REPAIRS,
18 LANDSCAPE BUFFERS AND VEGETATION UNDER AND AROUND SOLAR PANEL
19 STRUCTURES, AND INTEGRITY OF SECURITY MEASURES. ACCESS TO THE
20 FACILITY SHALL BE MAINTAINED IN A MANNER ACCEPTABLE TO THE FIRE
21 DEPARTMENT. THE OWNER, OPERATOR, OR LESSEE ARE RESPONSIBLE FOR THE
22 COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.

23 C. APPROPRIATE VEGETATION IS PERMITTED UNDER AND AROUND THE SOLAR

COLLECTOR PANELS, AND THE TRACT MAY BE USED FOR ACCESSORY AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK, APICULTURE, AND SIMILAR USES.

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

§4E-107. ABANDONMENT; REMOVAL.

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

B. REMOVAL SHALL CONSIST OF THE:

1. PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS, STRUCTURES, EQUIPMENT, SECURITY BARRIERS AND TRANSMISSION LINES FROM THE SITE;
2. DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE WITH LOCAL, STATE, AND FEDERAL WASTE DISPOSAL REGULATIONS; AND
3. STABILIZATION OR RE-VEGETATION OF THE SITE AS NECESSARY TO MINIMIZE EROSION.

C. IF THE OWNER OR OPERATOR FAIL TO REMOVE THE FACILITY WITHIN 150 DAYS OF ABANDONMENT, THE COUNTY RETAINS THE RIGHT TO ENTER AND REMOVE THE FACILITY. AS A CONDITION OF SPECIAL EXCEPTION APPROVAL,

1 THE PETITIONER AND LANDOWNER AGREE TO ALLOW ENTRY TO REMOVE AN
2 ABANDONED FACILITY.

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

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

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

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

13
14 §502.1. Conditions Determining Granting of Special Exception.

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

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

21
22 SECTION 2. AND BE IT FURTHER ENACTED, that the Planning Board shall, in
23 consultation with the Departments of Planning and Environmental Protection and Sustainability,

1 and with participation of the Baltimore County Commission on Environmental Quality,
2 representatives of the Solar Industry, the Sierra Club's Greater Baltimore Group, and the Valleys
3 Planning Council, study and evaluate the impact of Solar Facilities in Baltimore County and the
4 effect of Article 4E of these Regulations, and by July 1, 2018 submit recommendations to the
5 County Council and the County Executive regarding potential changes to current law.

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