

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2023, Legislative Day No. 11

Bill No. 53-23

Introduced by Mr. Smith, Chair
(by request of the County Executive)

and Mr. Smith

By the County Council, June 5, 2023

Introduced and first read on June 5, 2023
Public Hearing set for and held on July 3, 2023
Public Hearing on AMENDED bill set for and held on July 17, 2023
Public Hearing on SECOND AMENDED bill set for and held on September 5, 2023
Bill Expires September 8, 2023

By Order: Laura Corby, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Zoning – Solar Energy Generating Facilities

2
3 FOR the purpose of revising the definition of “solar energy generating facility –
4 community”; allowing rooftop mounted solar energy generating facilities as a
5 conditional use in certain commercial and industrial zoning districts; ~~removing certain~~
6 ~~solar energy generating facilities as a conditional use in certain industrial zoning~~
7 ~~districts~~; providing for the exemption of certain requirements for conditional use and
8 special exception use of “solar energy generating facilities – community” that are
9 “rooftop-mounted only facilities” or on properties owned or leased by the County,
10 sanitary landfills, reclamation areas; removing certain distance requirements for certain
11 solar energy generating facilities for a conditional special exception use; exempting
12 facilities requiring a certificate of public convenience and necessity from the State
13 Public Service Commission from requirements for conditional and special exception
14 use; allowing the County to collect any expenses incurred for the removal of rooftop-
15 mounted solar facilities; altering a special exception requirement to require that the
16 developer of a solar facility avoid disturbing prime farmland; and generally relating to
17 zoning.

EXPLANATION: CAPITALS indicate new matter added to existing law.
[[Brackets]] indicate matter deleted from existing law.
Captions and taglines in **bold** in this bill are catchwords and are not law.
Asterisks *** indicate existing Code provisions in a list or chart that remain unchanged.
Underlining indicates matter added to bill by amendment.
~~Strikeover~~ indicates matter removed from bill by amendment.

1 BY repealing and reenacting, with amendments: §§ 18-1-101(132); 18-5-102; ~~18-6-103~~;
2 18-10-160; 18-11-158; and 18-11-159
3 Anne Arundel County Code (2005, as amended) (as amended by Bill No. 15-23)

4
5 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
6 That Section(s) of the Anne Arundel County Code (2005, as amended) (and as amended
7 by Bill No. 15-23) read as follows:

8
9 **ARTICLE 18. ZONING**

10
11 **TITLE 1. DEFINITIONS**

12
13 **18-1-101. Definitions.**

14
15 Unless defined in this article, the Natural Resources Article of the State Code, or
16 COMAR, words defined elsewhere in this Code apply in this article. The following words
17 have the meanings indicated:

18
19 (132) “Solar energy generating facility – community” means ~~[[an industrial scale,]]~~
20 A renewable energy generating facility ~~[[as a principal use]]~~ that ~~[[is not an aggregate net~~
21 energy facility,]] uses energy from the sun to produce electricity ~~[[for delivery through~~
22 distribution lines to end-users]] AND that satisfies the requirements of A “COMMUNITY
23 SOLAR ENERGY GENERATING SYSTEM” SET FORTH IN ~~[[§ 7-306.2(a)(3)]]~~ § 7-306.2 of the
24 Public Utilities Article of the State Code ~~[[as existing on July 1, 2018, is part of a program~~
25 approved by the Maryland Public Service Commission, and does not exceed two
26 megawatts of output]].

27
28 **TITLE 5. COMMERCIAL DISTRICTS**

29
30 **18-5-102. Permitted, conditional, special exception, and business complex auxiliary**
31 **uses.**

32
33 The permitted, conditional, and special exception uses allowed in each of the
34 commercial districts, and uses auxiliary to a business complex, are listed in the chart in this
35 section using the following key: P=permitted use; C = conditional use; SE = special
36 exception use; and A = auxiliary to a business complex use. A blank means that the use is
37 not allowed in the district. Except as provided otherwise in this article, uses and structures
38 customarily accessory to permitted, conditional, and special exception uses also are
39 allowed.

| Permitted, Conditional, Special Exception, and Business Complex Auxiliary Uses | C1 | C2 | C3 | C4 |
|---|-----------|-----------|-----------|-----------|
| *** | | | | |
| Solar energy generating facility – community, rooftop-mounted only | C | C | C | C |
| Solar energy generating facility – utility scale, rooftop-mounted only | C | C | C | C |
| *** | | | | |

TITLE 6. INDUSTRIAL DISTRICTS

18-6-103. Permitted, conditional, and special exception uses.

The permitted, conditional, and special exception uses allowed in each of the industrial districts are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use; and A = auxiliary use to a business complex use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to permitted, conditional, and special exception uses also are allowed, except that outside storage as an accessory use in W1 is limited to 15% of the allowed lot coverage.

| Permitted, Conditional, and Special Exception Uses | W1 | W2 | W3 |
|---|------------------|-----------|-----------|
| *** | | | |
| Solar energy generating facility — community | [[C]] | C | C |
| Solar energy generating facility — utility scale | [[C]] | C | C |
| SOLAR ENERGY GENERATING FACILITY — COMMUNITY, ROOFTOP MOUNTED ONLY | C | | |
| SOLAR ENERGY GENERATING FACILITY — UTILITY SCALE, ROOFTOP MOUNTED ONLY | C | | |
| *** | | | |

TITLE 10. REQUIREMENTS FOR CONDITIONAL USES

18-10-160. Solar energy generating facility – community.

A solar energy generating facility – community shall comply with all of the following requirements.

(9) A solar facility is presumed to cease operations if no power is generated by the system for a period of 12 consecutive months. The owner of the solar facility shall have 12 months after cessation of operations to dismantle and remove the solar facility. If the owner fails to dismantle or remove the solar facility as required, the County may complete the removal at the owner’s expense, and shall retain all or any part of the decommissioning security which shall become the property of the County. Any additional expense incurred by the County, OR ANY EXPENSES INCURRED FOR THE REMOVAL OF A ROOFTOP-MOUNTED SOLAR FACILITY, shall be collected pursuant to § 1-8-101 of the Code.

(10) FACILITIES PROPOSED FOR LOCATION ON PROPERTIES OWNED OR LEASED BY THE COUNTY, SANITARY LANDFILLS, OR RECLAMATION AREAS ARE EXEMPT FROM THE REQUIREMENTS IN SUBSECTION (6).

(11) ROOFTOP-MOUNTED ONLY FACILITIES ARE NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (1), (3), ~~AND (6)~~ (6), (7), AND (8).

~~[[10]]~~ (12) A variance may not be granted for the requirements specified in this section.

1 (13) A FACILITY THAT REQUIRES A CERTIFICATE OF PUBLIC CONVENIENCE AND
2 NECESSITY FROM THE STATE PUBLIC SERVICE COMMISSION IS NOT REQUIRED TO COMPLY
3 WITH THIS SECTION, BUT THE CONDITIONS IN THIS SECTION MAY BE THE BASIS OF ANY
4 RECOMMENDATION TO THE PUBLIC SERVICE COMMISSION IN ACCORDANCE WITH § 7-207
5 OF THE PUBLIC UTILITIES ARTICLE OF THE STATE CODE.

6
7 **TITLE 11. REQUIREMENTS FOR SPECIAL EXCEPTION USES**

8
9 **18-11-158. Solar energy generating facility – community.**

10
11 A solar energy generating facility – community shall comply with all of the following
12 requirements.

13
14 ***

15
16 (6) The developer of the solar facility shall[[, to the degree practicable,]] avoid
17 disturbing prime [[agricultural soils]] FARMLAND, AS DEFINED IN 7 CFR 657, and shall
18 provide an analysis to demonstrate how the developer is avoiding disturbance of prime
19 [[agricultural soils]] FARMLAND. [[The development may not result in more than 50% of
20 prime agricultural soils on the site from being removed from existing or potential
21 agricultural production.]]

22
23 ***

24
25 (8) (I) A solar facility may not be located within an agricultural preservation area,
26 a priority preservation area, or a rural legacy area[[, or, EXCEPT AS PROVIDED IN
27 SUBPARAGRAPH (II), IF THE FACILITY IS LOCATED IN A RURAL AGRICULTURAL ZONING
28 DISTRICT, within 10 miles of another solar energy generating facility – community or solar
29 energy generating facility – utility scale]].

30
31 (II) THE PROHIBITION ON LOCATING A SOLAR ENERGY GENERATING FACILITY
32 WITHIN 10 MILES OF ANOTHER SOLAR ENERGY GENERATING FACILITY DOES NOT APPLY
33 TO A SOLAR ENERGY GENERATING FACILITY THAT IS A ROOF-TOP MOUNTED ONLY
34 FACILITY.

35
36 ***

37
38 (15) A solar facility is presumed to cease operations if no power is generated by the
39 system for a period of 12 consecutive months. The owner of the solar facility shall have 12
40 months after cessation of operations to dismantle and remove the solar facility. If the owner
41 fails to dismantle or remove the solar facility as required, the County may complete the
42 removal at the owner’s expense, and shall retain all or any part of the decommissioning
43 security which shall become the property of the County. Any additional expense incurred
44 by the County, OR ANY EXPENSES INCURRED FOR THE REMOVAL OF A ROOFTOP-MOUNTED
45 SOLAR FACILITY, shall be collected pursuant to § 1-8-101 of the Code.

46
47 (16) Facilities proposed for location on sanitary landfills or reclamation areas are
48 exempt from the requirements of subsections (1), (2), (6), [[and]] (8), AND (12).

49
50 (17) FACILITIES PROPOSED FOR LOCATION ON PROPERTIES OWNED OR LEASED BY
51 THE COUNTY ARE EXEMPT FROM THE REQUIREMENTS OF SUBSECTIONS (1) AND (12).

1 (18) ROOFTOP-MOUNTED ONLY FACILITIES ARE NOT SUBJECT TO THE
2 REQUIREMENTS OF SUBSECTIONS (3), (7), (12), (13), AND (14).

3
4 ~~[[17]]~~ (19) A variance may not be granted for the requirements specified in
5 this section.

6
7 ~~(19)~~ (20) A SPECIAL EXCEPTION IS NOT REQUIRED FOR A FACILITY THAT REQUIRES
8 A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE STATE PUBLIC
9 SERVICE COMMISSION, BUT THE CONDITIONS IN THIS SECTION MAY BE THE BASIS OF ANY
10 RECOMMENDATION TO THE PUBLIC SERVICE COMMISSION IN ACCORDANCE WITH § 7-207
11 OF THE PUBLIC UTILITIES ARTICLE OF THE STATE CODE.

12
13 **18-11-159. Solar energy generating facility – utility scale.**

14
15 A solar energy generating facility – utility scale shall comply with the requirements of
16 § 18-11-158 for a solar energy generating facility – community, except for subsection (1),
17 and the following requirements:

18
19 (1) ~~[[The facility may not be located on a site within 10 miles of a solar energy~~
20 ~~generating facility – community, or within 20 miles of another solar energy generating~~
21 ~~facility – utility-scale.~~

22
23 (2)]] The area used for the facility may not exceed 25% of the net area of the site.


24
25 ~~[[3]]~~ (2) A variance may not be granted for the requirements specified in this
26 section.

27
28 SECTION 2. *And be it further enacted,* That this Ordinance shall take effect 45 days
29 from the date it becomes law.


AMENDMENTS ADOPTED: July 3 and 17, 2023

READ AND PASSED this 5th day of September, 2023

By Order:


Laura Corby
Administrative Officer

PRESENTED to the County Executive for his approval this 7th day of September, 2023


Laura Corby
Administrative Officer

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APPROVED AND ENACTED this 12th day of September, 2023



Steuart Pittman
County Executive

EFFECTIVE DATE: October 27, 2023

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF
BILL NO. 53-23 THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.

A handwritten signature in black ink, appearing to read "Laura Corby". The signature is written in a cursive, flowing style with a long, sweeping underline.

Laura Corby
Administrative Officer