

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2022 Legislative Session

Legislative Day No. \_\_\_\_

Legislative Bill 2022- \_\_\_\_

Introduced: \_\_\_\_\_, 2022

Introduced by: Councilman William McCain

AN ACT TO AMEND CHAPTER 225 OF THE WICOMICO COUNTY CODE, TITLED "ZONING" PART 8, TITLED "SPECIAL STANDARDS FOR PARTICULAR USES," ARTICLE XX, TITLED "USES AND STANDARDS ENUMERATED," AND PART 6, TITLED "ACCESSORY AND PRINCIPAL USES," ARTICLE XVIII, TITLED "PRINCIPAL USES," SECTION 225-67, TITLED "TABLE OF PERMITTED USES-DESIGNATIONS" TO REGULATE, THE INSTALLATION, CONSTRUCTION, LOCATION AND SIZE OF SOLAR ENERGY SYSTEMS IN WICOMICO COUNTY.

WHEREAS, Wicomico County, Maryland recognizes the importance of renewable energy as a sustainable resource; and

WHEREAS, solar energy is instrumental in the implementation of sustainable resources; and

WHEREAS, land use of solar energy systems requires standards for use; and

WHEREAS, the Wicomico County Planning Commission, have reviewed the request and recommends (insert recommendation)

Section I. BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter 225 of the Wicomico County Code, titled "Zoning" Part 8, titled "Special Standards for Particular Uses," Article XX, titled "Uses and Standards Enumerated," and Part 6, titled "Accessory and Principal Uses," Article XVIII, titled "Principal Uses," Section 225-67, titled "Table of Permitted Uses-designations" are hereby amended, to read as follows:

Chapter 225

Zoning

Part 8

Special Standards for Particular Uses

Article XX

Uses and Standards Enumerated

§225-115.2- SOLAR UTILITY

A. PURPOSE. THE PURPOSE OF THESE PROVISIONS IS TO FACILITATE THE INSTALLATION AND CONSTRUCTION OF SOLAR ENERGY SYSTEMS IN WICOMICO COUNTY FOR PRIVATE LANDOWNERS, SUBJECT TO REASONABLE RESTRICTIONS, WHICH WILL PRESERVE AND PROTECT THE PUBLIC'S HEALTH AND SAFETY.

B. APPLICABILITY. THE REQUIREMENTS OF THIS SECTION SHALL APPLY TO ALL SOLAR ENERGY SYSTEMS PROPOSED AFTER THE EFFECTIVE DATE OF THIS SECTION. SOLAR ENERGY SYSTEMS FOR WHICH A REQUIRED PERMIT HAS BEEN PROPERLY ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL NOT BE REQUIRED TO MEET THE REQUIREMENTS OF THIS SECTION.

C. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

1. SOLAR, ACCESSORY (TO INCLUDE RESIDENTIAL, COMMERCIAL, AGRICULTURAL, INDUSTRIAL, AND INSTITUTIONAL INSTALLATIONS): A SOLAR ENERGY SYSTEM TO PRODUCE ELECTRICITY AND INTENDED TO SERVE A USE THAT IS INCIDENTAL AND SUBORDINATE TO THE PRINCIPAL USE OF A LOT, OR THE MAIN BUILDING THEREON AND LOCATED ON THE SAME LOT OR ON AN ADJACENT LOT UNDER THE SAME OWNERSHIP.
2. SOLAR, MINOR: A SOLAR ENERGY SYSTEM WITH A RATED CAPACITY OF NO MORE THAN 2 MEGAWATTS (2MW) OF POWER AND IS CONNECTED TO THE ELECTRIC DISTRIBUTION GRID SERVING THE STATE.
3. SOLAR, UTILITY: A SOLAR ENERGY FACILITY WITH A RATED CAPACITY OF MORE THAN 2MW OF POWER AND IS CONNECTED TO THE ELECTRIC DISTRIBUTION GRID SERVING THE STATE, AND REQUIRES THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) FROM THE MARYLAND PUBLIC SERVICE COMMISSION.

D. STANDARDS. A SOLAR ENERGY SYSTEM SHALL BE ALLOWED IN THE PERMITTED ZONING DISTRICTS SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. SETBACKS. ALL STRUCTURES RELATED TO THE SOLAR FACILITY SHALL BE SET BACK A MINIMUM OF 50 FEET FROM ALL PROPERTY LINES. THIS REQUIREMENT DOES NOT INCLUDE PERIMETER FENCING FROM:

(A) ANY STATE OR COUNTY RIGHT-OF-WAY OR THE NEAREST EDGE OF A STATE OR COUNTY ROADWAY, WHICHEVER IS CLOSER;

(B) ANY RIGHT OF INGRESS OR EGRESS ON THE OWNER'S PROPERTY;

(C) ANY OVERHEAD UTILITY LINES. SERVICE LINES OWNED BY A PRIVATE PROPERTY OWNER OF THE LAND ON WHICH THE SERVICE LINES SIT ARE EXEMPT FROM THE SETBACK; AND

## 2. APPROVAL AND INSTALLATION

(A) A SITE PLAN SHALL BE SUBMITTED FOR REVIEW AND APPROVAL BY THE WICOMICO COUNTY BOARD OF APPEALS WHEN A SPECIAL EXCEPTION IS REQUIRED.

(B) ALL GROUND-MOUNTED ELECTRICAL AND CONTROL EQUIPMENT SHALL BE LABELED AND SECURED TO PREVENT UNAUTHORIZED ACCESS.

(C) BUFFER. THE SITE PLAN SHALL INCLUDE A VEGETATIVE BUFFER FOR THE VISUAL SCREENING OF ACTIVE PORTIONS OF THE SOLAR FACILITY. THIS INCLUDES ALL RELATED STRUCTURES AND APPURTENANCES. A VEGETATIVE BUFFER WOULD NOT BE REQUIRED IF SUFFICIENT VEGETATION IS IN PLACE ON OR ADJACENT TO THE SITE AS DETERMINED BY THE ADMINISTRATOR. THE VEGETATIVE BUFFER IS TO BE ESTABLISHED AS FOLLOWS:

(I) A MINIMUM OF THREE STAGGERED ROWS OF PLANT MATERIALS WITH TEN-FOOT CENTER SPACING SHALL BE PLACED AT A WIDTH OF 10 FEET TO 20 FEET BETWEEN ROWS. THE FARTHEST ROW FROM THE SOLAR FACILITY MUST CONSIST OF EVERGREEN TREES.

(II) PLANT MATERIAL IS TO BE A MINIMUM OF AT LEAST ONE GALLON STOCK, OR APPROXIMATELY 18 INCHES WHEN PLANTED.

(III) BUFFERS SHALL BE INSTALLED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES IN ORDER TO ENSURE GROWTH AND PLANT MATERIAL SURVIVAL.

(IV) ALL REQUIRED BUFFERS SHALL BE PRESERVED AND MAINTAINED SO AS TO EFFECTIVELY PROVIDE VISUAL SCREENING. DEAD OR DYING BUFFER MATERIALS SHALL BE REPLACED WITH SIMILAR PLANT MATERIALS ON AN ANNUAL BASIS. MODIFICATIONS TO APPROVED BUFFERS MAY BE MADE BY THE ZONING ADMINISTRATOR.

(D) A VEGETATIVE GROUND COVER SHALL BE PROVIDED WITHIN THE SOLAR ARRAY. THE GROUND COVER SHALL BE NATIVE TO MARYLAND, AND MAY INCLUDE, BUT NOT LIMITED TO, ECHINACEA, COREOPSIS, SOLIDAGO, PENSTEMON, AND TRIFOLIUM. SPECIES DEEMED TO BE INVASIVE OR NOXIOUS SHALL NOT BE USED.

(E) IF THE PROPOSED SOLAR FACILITY RECEIVES APPROVAL BY THE WICOMICO COUNTY BOARD OF APPEALS, THE APPLICANT SHALL OBTAIN A BUILDING PERMIT FROM WICOMICO COUNTY AND COMPLY WITH ALL STANDARDS AND REQUIREMENTS THEREIN. ADDITIONAL SUBMITTALS MAY BE REQUIRED BY OTHER COUNTY DEPARTMENTS AND OR STATE AGENCIES.

3. CODE COMPLIANCE. A SOLAR FACILITY SHALL COMPLY WITH ALL APPLICABLE CONSTRUCTION AND ELECTRICAL CODES.

4. UTILITY NOTIFICATION AND INTERCONNECTION. A SOLAR FACILITY THAT CONNECTS TO AN ELECTRIC UTILITY SHALL COMPLY WITH THE PUBLIC SERVICE COMMISSION REGULATIONS.

5. NOISE. A SOLAR FACILITY SHALL COMPLY WITH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT NOISE REGULATIONS (COMAR § 26.02.03, CONTROL OF NOISE POLLUTION).

6. AN ACCESSORY USE SOLAR ENERGY SYSTEM SHALL BE ALLOWED IN THE PERMITTED ZONING DISTRICTS, BUT IS NOT SUBJECT TO THE FOREGOING STANDARDS. AN ACCESSORY USE SOLAR ENERGY SYSTEM MUST APPLY FOR A COUNTY BUILDING PERMIT PRIOR TO INSTALLATION.

E. PERMITTED USE.

1. A SOLAR ACCESSORY MAY BE PERMITTED IN A-1, VC, R8, R15, R20, REC, R30, TT, C-1, C-2, C-3, LB-1, LB-2, I-1, AND I-2 ZONING DISTRICTS.

2. A SOLAR, MINOR SYSTEM MAY BE PERMITTED BY SPECIAL EXCEPTION IN A-1, VC, TT, C-1, C-2, C-3, LB-1, I-1, AND I-2 ZONING DISTRICTS.

3. A SOLAR, UTILITY MAY BE PERMITTED IN A-1, VC, TT, C-1, C-2, C-3, LB-1, I-1, AND I-2 ZONING DISTRICTS, SUBJECT TO APPROVAL BY THE PUBLIC SERVICE COMMISSION.

F. DECOMMISSION

1. A DECOMMISSIONING PLAN IS REQUIRED TO BE SUBMITTED AND APPROVED BY THE COUNTY PRIOR TO THE APPLICATION FOR A BUILDING PERMIT. AMENDMENTS TO THE PLAN PRIOR TO DECOMMISSIONING MUST ALSO BE APPROVED BY THE COUNTY.

2. THE SOLAR ENERGY FACILITY OWNER OR ITS ASSIGNS MUST NOTIFY THE COUNTY OF AN INTENT TO DECOMMISSION 45 DAYS PRIOR TO DECOMMISSION.

3. DECOMMISSIONING BY THE SOLAR ENERGY FACILITY OWNER OR ITS ASSIGNS MUST BEGIN WITHIN THREE (3) MONTHS OF ANY OF THE

FOLLOWING CONDITIONS, UNLESS A PLAN FOR ITS CONTINUING USE HAS BEEN PROVIDED AND APPROVED BY THE COUNTY:

A. THE SOLAR ENERGY FACILITY HAS BEEN DAMAGED TO SUCH AN EXTENT THAT THE FACILITY WILL NOT BE REPLACED OR REPAIRED.

B. UPON THE ABANDONMENT OF THE FACILITY BY THE UTILITY SCALE SOLAR ENERGY FACILITY OWNER OR ITS ASSIGNS AS DETERMINED BY THE DEPARTMENT OF PLANNING AND ZONING.

3. DECOMMISSIONING MUST BE COMPLETED WITHIN ONE (1) YEAR ONCE BEGUN, UNLESS BEING CONDUCTED BY THE COUNTY.

4. IF A PARTIAL DECOMMISSIONING OCCURS, A NEW DECOMMISSIONING PLAN AND ASSOCIATED COST ESTIMATES MUST BE PREPARED.

5. FOLLOWING DECOMMISSIONING, THE DEPARTMENT OF PLANNING AND ZONING MUST PERFORM AN INSPECTION OF THE PROPERTY(S) TO DETERMINE ADEQUACY OF THE DECOMMISSIONING AND ADHERENCE TO THE DECOMMISSIONING PLAN BEFORE ANY FINANCIAL SURETY WILL BE RELEASED.

6. DECOMMISSIONING PLAN ELEMENTS MUST INCLUDE, BUT ARE NOT LIMITED TO:

A. DECOMMISSIONING COST ESTIMATES;

B. REMOVAL OF ALL ABOVE GROUND STRUCTURES INCLUDING, BUT NOT LIMITED TO: SOLAR PANEL ARRAYS, INVERTERS AND TRANSFORMERS, CONCRETE PADS, INTERNAL ROADS MATERIALS, FENCING, AND OTHER DEBRIS;

C. REMOVAL OF UNDERGROUND WIRING AND OTHER STRUCTURES;

D. A PLAN FOR DECOMMISSIONED MATERIAL THAT INCLUDES RECLAMATION, SALVAGE, RECYCLING, AND DISPOSAL;

E. ESTIMATES FOR THE AMOUNT OF MATERIALS TO BE SALVAGED ALONG WITH A CONTINGENCY PLAN IN THE EVENT THAT THE LOCAL SALVAGE MARKET IS INUNDATED;

F. RESTORATION OF THE PROPERTY(S) TO A SIMILAR OR BETTER CONDITION THAN AT THE TIME OF INSTALLATION. THIS MAY INCLUDE RESEEDING, TILLING, OR REFORESTING.

G. AN APPROVED BOND OR OTHER FINANCIAL GUARANTY FOR THE APPROVED ESTIMATED COST FOR DECOMMISSION.

H. IF THE LAND ON WHICH THE PROPOSED SOLAR ENERGY FACILITY IS TO BE LOCATED IS LEASED, A COPY OF THE LEASE AGREEMENT BETWEEN THE LESSEE AND LESSOR.

7. A DECOMMISSIONING COST ESTIMATE MUST ACCOMPANY THE DECOMMISSIONING PLAN AND BE PREPARED BY A MARYLAND LICENSED ENGINEER AT THE COST OF THE FACILITY OWNER(S). THE DECOMMISSIONING COST ESTIMATE MUST BE UPDATED EVERY FIVE (5) YEARS BY A MARYLAND LICENSE ENGINEER AT THE COST OF THE FACILITY OWNER(S) AND SUBMITTED TO THE DEPARTMENT OF PLANNING AND ZONING. IF THE CHANGE IN THE ESTIMATED COST OF DECOMMISSION EXCEEDS THE CURRENT BOND OR OTHER FINANCIAL GUARANTY THEN THE BOND OR OTHER FINANCIAL GUARANTY MUST BE INCREASED TO REFLECT THE NEW ESTIMATED COSTS. PRIOR TO DECOMMISSIONING THE FACILITY, A COST ESTIMATE MUST BE PREPARED BY A MARYLAND LICENSED ENGINEER REGARDLESS OF THE AMOUNT OF TIME THAT HAS PASSED SINCE THE PRIOR COST ESTIMATE. THE COUNTY MAY PREPARE ITS OWN DECOMMISSIONING COST ESTIMATE WITH THE COST TO BE BORNE BY THE OWNER(S) OF THE FACILITY.

H. PUBLIC SERVICE COMMISSION. IN ACCORDANCE WITH THE MARYLAND ANNOTATED CODE, PUBLIC UTILITIES, § 7-207.1, ANY PROPERTY OWNER SEEKING TO CONSTRUCT A SOLAR ENERGY SYSTEM AND CONNECT SUCH SYSTEM TO THE MAIN POWER GRID WITH THE CAPABILITY OF TRANSPORTING ENERGY BACK TO HIS OR HER MAIN POWER COMPANY SHALL APPLY TO THE PUBLIC SERVICE COMMISSION FOR APPROVAL, IF APPLICABLE, AND PROVIDE DOCUMENTATION OF SUCH APPROVAL TO THE COUNTY PRIOR TO CONSTRUCTION AND BEING ISSUED A PERMIT.

I. SPECIAL EXCEPTION. IN ACCORDANCE WITH WICOMICO COUNTY CODE CHAPTER 225, THE BOARD OF APPEALS MAY, BY SPECIAL EXCEPTION, ALLOW DEVIATIONS FROM THE STANDARDS SET FORTH IN § 225-115.2D, IF SUCH DEVIATION(S) WOULD NOT BE CONTRARY TO THE PUBLIC HEALTH, SAFETY, OR WELFARE AND THE GRANTING OF THE SPECIAL EXCEPTION WILL NOT BE A DETRIMENT TO ADJACENT AND NEIGHBORING PROPERTIES.

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Part 6

Accessory and Principal Uses

Article XVIII

Principal Uses

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§225-67 Table of Permitted Uses-designations

1. The Table of Permitted Uses, Attachment 1, Part 1, Resource Conservation and Residential Districts, shall be amended to reflect the changes created by this legislation.

	A-1	VC	R8	R15	R20	REC	R30	TT
SOLAR, ACCESSORY	P	P	P	P	P	P	P	P
SOLAR, MINOR	SE	SE						SE
SOLAR, UTILITY	P	P						P

2. The Table of Permitted Uses, Attachment 2, Part 2, Commercial, Institutional, Business and Industrial Districts, shall be amended to reflect the changes created by this legislation.

	C-1	C-2	C-3	LB-1	LB-2	I-1	I-2
SOLAR, ACCESSORY	P	P	P	P	P	P	P
SOLAR, MINOR	SE	SE	SE	SE		SE	SE
SOLAR, UTILITY	P	P	P	P		P	P

**SECTION II:** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION THAT this bill shall be known as Legislative Bill No. 2022-\_\_ and shall take effect sixty (60) days after its enactment, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of the County voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this \_\_\_\_ day of \_\_\_\_\_, 2022.

WICOMICO COUNTY, MARYLAND

\_\_\_\_\_(SEAL)  
By: John Cannon, President

\_\_\_\_\_(SEAL)  
By: Laura Hurley, Secretary

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.

\_\_\_\_\_(SEAL)  
By: Laura Hurley, Secretary

Explanation:

~~Strike Out~~ indicates matters deleted from existing law.

CAPITALS INDICATE MATTERS ADDED TO EXISTING LAW.

~~CAPITAL STRIKE OUT~~ indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill



COUNTY COUNCIL  
OF  
WICOMICO COUNTY, MARYLAND

2022 Legislative Session

Legislative Day No. \_\_\_\_\_

LEGISLATIVE BILL NO. 2022 - \_\_

DATE: \_\_\_\_\_, 2022

Introduced by: Councilman William McCain

AN ACT TO AMEND CHAPTER 225 OF THE WICOMICO COUNTY CODE, TITLED "ZONING" PART 8, TITLED "SPECIAL STANDARDS FOR PARTICULAR USES," ARTICLE XX, TITLED "USES AND STANDARDS ENUMERATED," AND PART 6, TITLED "ACCESSORY AND PRINCIPAL USES," ARTICLE XVIII, TITLED "PRINCIPAL USES," SECTION 225-67, TITLED "TABLE OF PERMITTED USES-DESIGNATIONS" TO REGULATE, THE INSTALLATION, CONSTRUCTION, LOCATION AND SIZE OF SOLAR ENERGY SYSTEMS IN WICOMICO COUNTY.

Introduced and read on \_\_\_\_\_, 2022. Ordered posted and public hearing scheduled for \_\_\_\_\_, 2022, at \_\_\_\_\_ a.m./p.m.

**PUBLIC HEARING:** Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on \_\_\_\_\_, 2022, and concluded on \_\_\_\_\_, 2022.

\_\_\_\_\_  
Laura Hurley, Council Administrator

**CERTIFICATION:** The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Laura Hurley, Council Administrator

Presented to the Acting County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ a.m./p.m. (5 days '411)

\_\_\_\_\_  
Laura Hurley, Council Administrator

**BY THE EXECUTIVE:**

\_\_\_\_\_  
John D. Psota, Acting County Executive

APPROVED

Date: \_\_\_\_\_  
(21 days '411)

VETOED

Date: \_\_\_\_\_

**EFFECTIVE DATE:**

This Bill, having been approved by the Acting County Executive and returned to the Council, becomes law on \_\_\_\_\_, 2022, and effective on: \_\_\_\_\_, 2022. (60 days '311)

**ENROLLMENT:** Legislative Bill No. 2022-\_\_ is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

\_\_\_\_\_  
Laura Hurley, Council Administrator  
Date: \_\_\_\_\_

ENROLLED

\_\_\_\_\_  
John Cannon, Council President  
Date: \_\_\_\_\_

