

Introduced _____
Public hearing _____
Council action _____
Executive action _____
Effective date _____

County Council of Howard County, Maryland

2016 Legislative Session

Legislative day # 14

BILL NO. 59 – 2016 (ZRA – 164)

Introduced by

Calvin Ball

AN ACT amending the Howard County Zoning Regulations to remove certain restrictions that limit the size of Commercial Solar Facilities on County Preservation Parcels and allow Commercial Solar Facilities as a Conditional Use on RR and RC zoned properties, under certain conditions; and generally relating to Commercial Solar Facilities.

Introduced and read first time _____, 2016. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator to the County Council

Having been posted & notice of time & place of hearing and title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2016.

By order _____
Jessica Feldmark, Administrator to the County Council

This Bill was read the third time _____, 2016 and Passed __, Passed with amendments __, Failed __.

By order _____
Jessica Feldmark, Administrator to the County Council

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2016 at _____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator to the County Council

Approved/vetoed by the County Executive on _____, 2016.

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law.
~~Strikeout~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, Policy 4.12 of *PlanHoward 2030* calls for the County to "Develop an energy plan that
2 prepares for different future energy scenarios, examines options for various kinds of future energy
3 sustainability, promotes conservation and renewable resources, and sets targets to reduce greenhouse
4 gases"; and

5
6 **WHEREAS**, Policy 4.12 has an Implementing Action D which calls for the County to "Implement the
7 County's 2010 Climate Action Plan (referenced in Chapters 1, 3, and 12), which relates to future energy
8 technology, such as wind, solar, geothermal, and other renewable sources"; and

9
10 **WHEREAS**, The General Plan also states in Policy 4.12, Implementing Action G, that the County
11 should "Explore evolving energy markets, plus options for enabling "smart grid" technologies, which
12 reveal new opportunities to create, store, consume, and invest in energy commodities and related
13 assets"; and

14
15 **WHEREAS**, according to the Howard County Economic Development Authority, "Howard County's
16 diverse agriculture industry is 335 farms strong, with:

- 17 • Innovative and robust growth in landscape, greenhouse and horticulture enterprises;
- 18 • A boom in agri-tourism and locovore food sales to consumers through farmers' markets and
19 other outlets; and
- 20 • More horses per acre than any other county in the U.S., along with boarding and training
21 services"; and

22
23 **WHEREAS**, in order to ensure that Howard County's 355 farms remain economically viable into the
24 future, the County should encourage new policies and regulations, similar to this Zoning Regulations
25 Amendment, which encourage diversifying farms' production to the benefit of both farmers and County
26 residents.

27
28 **NOW THEREFORE:**

29
30 *Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard*
31 *County Zoning Regulations are hereby amended as follows:*

32
33 *By amending:*

34
35 *Section 106.1: "County Preservation Easements"*

36 *Subsection D. "Conditional Uses"*

1 *Numbers 1 “ALPP Purchased Easements and ALPP Dedicated Easements” and 2 “Other Dedicated*
2 *Easements”*

3

4 *and*

5

6 *Section 131.0: “Conditional Uses”*

7 *Subsection N. 52 “Solar Facility, Commercial”*

8

9

10 **Howard County Zoning Regulations**

11

12 **SECTION 106.1: - COUNTY PRESERVATION EASEMENTS**

13

14 **D. Conditional Uses**

15 1. ALPP Purchased Easements and ALPP Dedicated Easements

16 a. Conditional Uses shall not be allowed on agricultural preservation easements
17 unless they support the primary agricultural purpose of the easement property, or are an
18 ancillary business which supports the economic viability of the farm, and are approved
19 by the hearing authority in accordance with the applicable provisions of Sections 130.0
20 and 131.0 of these regulations. On an ALPP purchased or dedicated easement property,
21 the area devoted to Conditional Uses may not exceed a cumulative use cap equal to 2%
22 of the easement or up to a maximum of 1 acre for preservation parcels created as part
23 of the Cluster Subdivision process.

24 The following Conditional Uses may be allowed:

- 25 (1) Animal hospitals
- 26 (2) Barber shop, hair salon and similar personal services facilities
- 27 (3) Bottling of spring or well water
- 28 (4) Communication Towers
- 29 (5) Farm tenant house on a parcel of at least 25 acres but less than 50 acres
- 30 (6) Historic building uses
- 31 (7) Home based contractors

- 1 (8) Home occupations
- 2 (9) Kennels and/or pet grooming establishments
- 3 (10) Landscape contractors
- 4 (11) Limited outdoor social assemblies
- 5 (12) Sawmills or bulk firewood processing
- 6 (13) School buses, commercial service
- 7 (14) Small wind energy systems, freestanding tower
- 8 [[(15) Solar facilities, commercial]]

9 b. In addition, the following Conditional Uses which may require additional land
10 area may be permitted on agricultural preservation easements:

- 11 (1) Agribusiness, limited to uses itemized in Section 131.0.N.
- 12 (2) Farm winery—class 2
- 13 (3) SOLAR FACILITIES, COMMERCIAL

14
15 2. Other Dedicated Easements

16 a. Conditional Uses shall not be allowed on other dedicated easements unless they
17 support the primary purpose of the easement property and are approved by the Hearing
18 Authority in accordance with the applicable provisions of Sections 130.0 and 131.0 of
19 these Regulations. On these dedicated easements, the following Conditional Uses
20 which do not require the construction of new principal structures or use of an outdoor
21 area that is more than 2% of the preservation parcel acreage up to a maximum of 1 acre
22 may be allowed:

- 23 (1) Animal hospitals
- 24 (2) Antique shops, art galleries and craft shops
- 25 (3) Barber shop, hair salon and similar personal service facilities
- 26 (4) Bottling of spring or well water
- 27 (5) Child day care centers and nursery schools, day treatment and care facilities
- 28 (6) Communication towers
- 29 (7) Country inns

- 1 (8) Historic building uses
- 2 (9) Farm tenant house on a parcel of at least 25 acres but less than 50 acres
- 3 (10) Home based contractors
- 4 (11) Home occupations
- 5 (12) Kennels and/or pet grooming establishments
- 6 (13) Landscape contractors
- 7 (14) Limited outdoor social assemblies
- 8 (15) Museums and libraries
- 9 (16) Retreats
- 10 (17) School buses, commercial service
- 11 (18) Shooting ranges—outdoor rifle, pistol, skeet and trap
- 12 (19) Small wind energy systems, freestanding tower
- 13 ~~[(20) Solar Facilities, commercial]]~~
- 14 ~~[[21]]20~~ Two family dwellings, accessory apartments and multi-plex dwellings
- 15 b. In addition, the following Conditional Uses which may require additional land
- 16 area may be permitted on other dedicated easements:
- 17 (1) Agribusiness, limited to uses itemized in Section 131.0.N.2
- 18 (2) Charitable or philanthropic institutions dedicated to environmental conservation
- 19 (3) Farm Winery—Class 2
- 20 (4) Golf Courses
- 21 (5) SOLAR FACILITIES, COMMERCIAL

22

23

24 **SECTION 131.0: CONDITIONAL USES**

25

26 **N. Conditional Uses and Permissible Zoning Districts**

- 27
- 28 52. Solar Facility, Commercial

1 A Conditional Use may be granted in the RC or RR District for a commercial solar
2 facility, provided that:

3 [[a. The land on which the commercial solar facility is proposed may not be in the
4 Agricultural Land Preservation Program and it may not be encumbered by any
5 environmental preservation easements.]]

6 [[b]]A. The maximum size of a solar facility shall be 75 acres notwithstanding the size of
7 the parcel. The parcel on which the commercial solar facility is proposed must be a
8 minimum of 10 acres in size.

9 [[c]]B. All structures and uses must meet a minimum 50 foot setback from all property
10 lines.

11 [[d]]C. No structure or use may be more than 20 feet in height.

12 [[e]]D. A 'Type D' landscaping buffer must be provided around the perimeter of the
13 proposed commercial solar facility unless the Hearing Authority determines that an
14 alternative buffer is sufficient.

15 [[f]]E. All security fencing must be located between the landscaping buffer and the
16 commercial solar facility.

17 [[g]]F. The systems shall comply with all applicable local, state, and federal laws and
18 provisions.

19 [[h]]G. A commercial solar facility that is no longer used shall be removed from the site
20 within one year of the date that the use ceases.

21 [[i]]H. The premises shall be maintained at all times in a clean and orderly condition,
22 including the care or replacement of plant materials required in the landscaping plan.
23 The responsibility for compliance with this provision shall be with all parties having a
24 lease or ownership interest in the commercial solar facility. The applicant shall provide
25 the Hearing Authority with details regarding maintenance and access for the site.

26 [[j]]I. A solar collector or combination of solar collectors shall be designed and located
27 to avoid glare or reflection onto adjacent properties and adjacent roadways and
28 shall not interfere with traffic or create a safety hazard. THE PETITIONER SHALL
29 INCLUDE A GLARE STUDY WITH THE CONDITIONAL USE PETITION.

30 [[k]]J. The applicant shall agree to register all solar collectors with the Department of
31 Fire and Rescue Services. The registration shall include a map of the solar facility
32 noting the location of the solar collectors and the panel disconnect.

1 [[1]]K. Tree removal shall be minimized and reforestation shall be done in accordance
2 with Section 16.1026 of the Howard County Code.

3 L. SCENIC VIEWS

4 ~~[[m]]L(1)~~ The applicant shall demonstrate that the solar facility does not harm the scenic
5 characteristics of the view of or from:

6 ~~(1)~~A. A public park;

7 ~~(2)~~B. A national or state designated scenic byway;

8 ~~(3)~~C. A road listed in the Scenic Roads Inventory adopted under Section
9 16.1403 of the Howard County Code; or

10 ~~(4)~~D. A historic structure as defined in Section 16.601 of the Howard County
11 Code.

12 2. VISUAL IMPACT ANALYSIS REQUIRED TO DEMONSTRATE MINIMAL IMPACT TO
13 OR FROM SCENIC VIEWS

14
15 A. THE CONDITIONAL USE PETITION SHALL INCLUDE A VISUAL IMPACT
16 ANALYSIS MAPPING ALL VIEWSHED IMPACTS AND ANY PROPOSED
17 MITIGATION. THIS ANALYSIS SHALL INCLUDE MAPPED VISUAL IMPACT
18 ASSESSMENTS OF ALL IMPORTANT OR CRITICAL VIEWPOINTS OR
19 ELEVATIONS FROM WHICH THE SOLAR FACILITY CAN BE SEEN FROM A
20 FIXED VANTAGE POINT. FOR PURPOSES OF THIS SUBSECTION, A
21 VIEWSHED IS A TOPOGRAPHICALLY DEFINED AREA INCLUDING ALL
22 CRITICAL OBSERVATION POINTS FROM WHICH THE SOLAR FACILITY IS
23 VIEWED.

24
25 B. IF THE VISUAL IMPACT ASSESSMENT AS MAPPED PARTICULARLY
26 INTERFERES WITH AND COMPROMISES CRITICAL OBSERVATION POINTS
27 WITHIN THE VIEWSHED THAT WARRANT VIEWSHED PROTECTION, THE
28 PETITIONER SHALL MITIGATE THE VIEW THROUGH ADDITIONAL
29 LANDSCAPING OR OTHER FORMS OF MITIGATION, INCLUDING
30 RECONFIGURATION OF THE SOLAR PANELS, OR AS MAY BE REQUIRED BY
31 THE HEARING AUTHORITY.

32
33 C. FENCING ALONG ROAD FRONTAGE OR THE PERIMETERS OF THE

1 COMMERCIAL SOLAR FACILITY SITE WHERE THE FENCING WOULD BE
2 VISIBLE SHALL BE CONSTRUCTED OF A MATERIAL AND DESIGN
3 CONSISTENT WITH THE CHARACTER OF THE ROADWAY OR AREA.

4
5 D. THE PETITION SHALL INCLUDE A LANDSCAPE PLAN.

6
7 M. THE HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD SHALL
8 REVIEW ANY CONDITIONAL USE PETITION WHICH PROPOSES TO BUILD A NEW
9 COMMERCIAL SOLAR FACILITY ON PARCELS WHICH ARE IN THE AGRICULTURAL LAND
10 ~~PRESERVATION PROGRAM PRIOR TO APPROVAL BY THE HEARING AUTHORITY.~~
11 PRESERVATION PROGRAM PRIOR TO APPROVAL BY THE HEARING AUTHORITY IN THE
12 FOLLOWING MANNER:

13
14 (1) PRIOR TO SCHEDULING AND CONVENING A PRESUBMISSION COMMUNITY
15 MEETING PURSUANT TO HOWARD COUNTY ZONING REGULATIONS SECTION
16 131.0.F.1, THE PETITIONER SHALL SUBMIT A PROPOSED CONDITIONAL USE PLAN
17 FOR A COMMERCIAL SOLAR FACILITY ON A PARCEL OR PARCELS IN THE
18 AGRICULTURAL LAND PRESERVATION PROGRAM TO THE HOWARD COUNTY
19 AGRICULTURAL LAND PRESERVATION BOARD FOR ADVISORY REVIEW AS TO
20 WHETHER THE SITING OF THE COMMERCIAL SOLAR FACILITY ON THE PARCEL OR
21 PARCELS SUPPORTS THE PRIMARY AGRICULTURAL PURPOSE OF THE EASEMENT
22 PROPERTY OR IS AN ANCILLARY BUSINESS WHICH SUPPORTS THE ECONOMIC
23 VIABILITY OF THE FARM.

24
25 (2) THE MATERIALS SUBMITTED FOR REVIEW SHALL INCLUDE, AT A MINIMUM, A
26 COPY OF THE AGRICULTURAL LAND PRESERVATION PROGRAM EASEMENT, A
27 COPY OF THE HOWARD COUNTY SOIL CONSERVATION AND WATER QUALITY
28 PLAN, AND A COPY OF THE PROPOSED CONDITIONAL USE PLAN.

29
30 (3) THE BOARD'S ADVISORY REVIEW SHALL BE IN WRITING.

31
32 (4) THE PETITIONER SHALL MAKE THE BOARD'S ADVISORY REVIEW AVAILABLE
33 AT THE PRESUBMISSION COMMUNITY MEETING.

34
35 (5) THE DEPARTMENT OF PLANNING AND ZONING'S TECHNICAL STAFF REPORT ON

1 THE PETITION SHALL INCLUDE AN EVALUATION OF AND A RECOMMENDATION ON
2 THE BOARD'S ADVISORY REVIEW OF THE PETITION AND SHALL INCLUDE AS
3 ATTACHMENTS THE BOARD'S ADVISORY REVIEW AND A COPY OF THE
4 AGRICULTURAL PRESERVATION EASEMENT.

5
6 N. SUBJECT TO SECTION 106 OF THESE REGULATIONS, THE PROPERTY ON WHICH AN
7 APPROVED COMMERCIAL SOLAR FACILITY IS LOCATED IS ELIGIBLE TO BE A SENDING
8 PARCEL PROVIDED THAT ONE DENSITY RIGHT IS RETAINED FOR THE CONDITIONAL USE
9 UNTIL THE COMMERCIAL SOLAR FACILITY IS REMOVED.

10
11 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that the*
12 *publisher of the Howard County Zoning Regulations is authorized hereby to amend the Conditional*
13 *Uses and Permissible Zoning Districts chart attached to Section 131 of the Zoning Regulations in*
14 *order to reflect the substantive changes made by this Act.*

15
16 *Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland, that this Act*
17 *shall become effective 61 days after its enactment.*