

Introduced October 7, 2019  
Public Hearing October 21, 2019  
Council Action November 4, 2019  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 12

### Bill No. 55 -2019

Introduced by: David Yungmann

AN ACT establishing the temporary Commercial Solar Facility Conditional Use Interim Development Act; temporarily prohibiting certain Conditional Use petitions for proposed Conditional Use approvals for Commercial Solar Facility; finding that such petitions, if approved under the current Zoning Regulations, could lead to development incompatible with surrounding agricultural uses; finding that the potential incompatibility represents a threat to the sustainability of the agricultural industry and its impact on public health, safety and welfare; providing that the purposes of this Act are to provide the Commercial Solar Facilities Task Force with time to study the deficiencies in the Commercial Solar Facility Conditional Use, investigate alternatives and make recommendations for improvement and give the County Council time to act on the recommendations; providing that this Act shall be abrogated and of no further force and effect after a certain period; and generally relating to zoning and land use.

Introduced and read first time October 7, 2019. Ordered posted and hearing scheduled.

By order

Diane Schwartz Jones  
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on October 21, 2019.

By order

Diane Schwartz Jones  
Diane Schwartz Jones, Administrator

This Bill was read the third time on November 4, 2019 and Passed \_\_\_\_\_, Passed with amendments \_\_\_\_\_, Failed X.

By order

Diane Schwartz Jones  
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_ a.m./p.m.

By order

\_\_\_\_\_  
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2019

\_\_\_\_\_  
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, it is widely recognized throughout the world that clean, renewable energy sources  
2 are essential to ensure that there is diversity in the nation’s energy supply, thus strengthening the  
3 country’s energy security; and  
4

5 **WHEREAS**, the three main pillars of renewable energy: hydro, wind, and solar have  
6 experienced tremendous growth in this country, with U.S. renewable electricity generation nearly  
7 doubling since 2008 according to the U.S. Energy Information Administration; and  
8

9 **WHEREAS**, in 2012 the County Council approved Zoning Regulation Amendment (ZRA) 142,  
10 which allowed commercial solar facilities to be established by Conditional Use under certain  
11 conditions in the Rural Conservation (RC) and Rural Residential (RR) zoning districts, excluding  
12 preservation and environmental easement parcels; and  
13

14 **WHEREAS**, in 2016 the County Council approved Zoning Regulation Amendment (ZRA) 164,  
15 allowing the facilities to be established on agricultural and environmental preserved parcels by  
16 Conditional Use under certain conditions in the RC and RR zoning districts; and  
17

18 **WHEREAS**, Conditional Uses are authorized in specified zoning districts based on the  
19 presumption that they are generally appropriate and compatible in the specified districts but are  
20 not permitted automatically as they are subject to the regulations of Section 131 of the Zoning  
21 Regulations and to the conditions imposed by the Hearing Authority upon its approval of the  
22 proposed Conditional Use; and  
23

24 **WHEREAS**, according to the Howard County Zoning Regulations, the RC and RR zoning  
25 districts, particularly on the agricultural and environmental easements, have been “...established  
26 to conserve farmland and to encourage agricultural activities, thereby helping to ensure that  
27 commercial agriculture will continue as a long-term land use and a viable economic activity  
28 within the County”; and  
29

30 **WHEREAS**, to build commercial solar facilities, a large area of land is required, which may  
31 possibly interfere with the existing land uses and potentially result in the clearing and grading of

1 land, which can cause soil compaction, erosion, and alteration of drainage channels; and

2  
3 **WHEREAS**, recently Howard County has mirrored the national trend of tremendous growth in  
4 the number of commercial solar facilities, as evident by four commercial solar facilities currently  
5 seeking County approval and two others beginning the approval process; and

6  
7 **WHEREAS**, Maryland’s Governor Hogan states in his Executive Order (01.01.2019.09), which  
8 establishes a Task Force on Renewable Energy Development and Siting, that “The State must  
9 work aggressively to diversify, expand, and sustain its clean and renewable energy capabilities  
10 while balancing, enhancing, and safeguarding Maryland’s cultural heritage, economy,  
11 environment, natural resources, and view-sheds;”; and

12  
13 **WHEREAS**, the State’s Task Force on Renewable Energy Development and Siting is charged  
14 with making recommendations to the Governor that could be considered as legislation in the  
15 2020 General Assembly session that would encourage the responsible siting of clean and  
16 renewable energy projects; and

17  
18 **WHEREAS**, Howard County government understands the importance balancing the need for  
19 alternative sources of income for famers in Howard County and the importance of clean energy,  
20 while trying to conserve prime Howard County farmland and preserving the agricultural  
21 industry; and

22  
23 **WHEREAS**, the Howard County Council, through a companion resolution, is requesting that the  
24 Administration establish a Commercial Solar Facilities Task Force to examine the current  
25 Commercial Solar Facilities policy, specifically the use on agricultural and environmental  
26 easements; and

27  
28 **WHEREAS**, due to the potential land use changes that may be necessary for Commercial Solar  
29 Facilities in response to the recommendations requested by this Bill and because the State is  
30 Maryland will be taking action in the 2020 Session of the General Assembly, it is imperative that  
31 the County have sufficient time to consider and act on any recommendation concerning changes

1 to Commercial Solar Facilities.

2

3 **NOW THEREFORE,**

4

5 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that a temporary  
6 *Interim Development Act on the approval of petitions for Commercial Solar Facility Conditional*  
7 *Uses to allow sufficient time for consideration of potential amendments to the Zoning*  
8 *Regulations applicable to those petitions is hereby established.*

9

10 **Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland  
11 *that:*

12 A. *Short Title.* This Act shall be known as the Commercial Solar Facility  
13 Conditional Use Interim Development Act.

14 B. *Purpose.* There are several Commercial Solar Facility Conditional Use petitions  
15 for properties located in the Rural Conservation (RC) and Rural Residential (RR) zoning districts  
16 to be scheduled before the Hearing Examiner, and it is anticipated that the County may receive a  
17 number of additional petitions for Commercial Solar Facility Conditional Uses. These  
18 conditional use petitions, if considered and approved under the present criteria in the Zoning  
19 Regulations, could lead to development which would be incompatible with surrounding  
20 agricultural uses. There is a threat to the sustainability of the agricultural industry and the public  
21 health, safety and welfare if conditional use petitions, as defined in this Act, were approved  
22 under the current criteria in the Zoning Regulations. This Interim Development Act is necessary:

23 (1) To provide the Commercial Solar Facility Task Force time to study the  
24 deficiencies in the Commercial Solar Facility Conditional Use and recommend revisions and  
25 improvements; and

26 (2) To provide the County Council time to correct those deficiencies before a  
27 conditional use petition as defined in this Act is considered by the Hearing Examiner or Board of  
28 Appeals.

29 C. *Definition.* For purposes of this Act, a “conditional use petition” is an application  
30 for a proposed Commercial Solar Facility Conditional Use located in the Rural Conservation  
31 (RC) and Rural Residential (RR) zoning districts.

1           D.     *Conditional Use Petition.* The Department of Planning and Zoning shall not  
2 accept any conditional use petitions, as defined above, on or after the effective date of this Act  
3 nor shall the Planning Board make recommendations on conditional use petitions, as defined  
4 above, on or after the effective date of this Act. Conditional use petitions, as defined above, filed  
5 before the effective date of this Act may proceed only through recommendations by the  
6 Department of Planning and Zoning and the Agricultural Preservation Board, and will not be  
7 considered by the Hearing Examiner or Board of Appeals until the expiration of this Act as  
8 provided below.

9           E.     *Effective Date.* This Act is adopted as an interim measure and shall be in effect  
10 for one year from its effective date, and, at the end of that day, with no further action required by  
11 the County Council, this Act shall be abrogated and of no further force and effect.

12  
13 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County, Maryland that  
14 *this Act shall become effective 61 days after its enactment.*