

COUNTY COUNCIL
OF
DORCHESTER COUNTY, MARYLAND

2022 Legislative Session,
Legislative Day No. 11

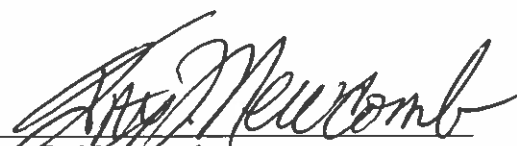
Introduced By: County Council

BILL NO. 2022-12

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND ACTING PURSUANT TO THE LAND USE ARTICLE OF THE MARYLAND ANNOTATED CODE, WHICH ENTRUSTS LOCAL JURISDICTIONS WITH LAND USE PLANNING AUTHORITY TO GUIDE GROWTH AND DEVELOPMENT AND PURSUANT TO CHAPTER 155, ENTITLED "ZONING", SECTION 155-5(A) OF THE DORCHESTER COUNTY CODE TO ADD CERTAIN DEFINITIONS TO SECTION 155-13 OF CHAPTER 155 AND TO REPEAL AND REENACT THE DEFINITION OF "SOLAR ENERGY SYSTEMS, UTILITY SCALE", AS SET FORTH IN ARTICLE II, DEFINITIONS OF SECTION 155-13, ENTITLED "TERMS DEFINED" OF CHAPTER 155, AND TO REPEAL AND REENACT SECTION 155-50(LL), ENTITLED "SOLAR ENERGY SYSTEMS, UTILITY SCALE" OF ARTICLE IX, ENTITLED "SUPPLEMENTARY USE REGULATIONS" OF CHAPTER 155 ENTITLED "ZONING" OF THE DORCHESTER COUNTY CODE, PROVIDING FOR THE REGULATION OF SOLAR ENERGY SYSTEMS AND TO AMEND "TABLE OF PERMITTED USES BY ZONING DISTRICT DORCHESTER COUNTY, MARYLAND" OF CHAPTER 155 ENTITLED "ZONING" OF THE DORCHESTER COUNTY CODE TO IMPLEMENT THE ACT.

Introduced, read first time, ordered posted on the official bulletin board of County, County Office Building, 501 Court Lane, Cambridge, Maryland 21613.

Ordered publication for once a week for three (3) successive weeks, and public hearing scheduled on Tuesday, October 18, 2022, Room 110, County Office Building, 501 Court Lane, Cambridge, Maryland at 6:02 p.m.

By order: 
Jay L. Newcomb
President of the County Council
of Dorchester County, Maryland

Aug.22
DorCo.SolarEnergyPub/mlh

**COUNTY COUNCIL
OF
DORCHESTER COUNTY, MARYLAND**

BILL NO. 2022-12

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND ACTING PURSUANT TO THE LAND USE ARTICLE OF THE MARYLAND ANNOTATED CODE, WHICH ENTRUSTS LOCAL JURISDICTIONS WITH LAND USE PLANNING AUTHORITY TO GUIDE GROWTH AND DEVELOPMENT AND PURSUANT TO CHAPTER 155, ENTITLED “ZONING”, SECTION 155-5(A) OF THE DORCHESTER COUNTY CODE TO ADD CERTAIN DEFINITIONS TO SECTION 155-13 OF CHAPTER 155 AND TO REPEAL AND REENACT THE DEFINITION OF “SOLAR ENERGY SYSTEMS, UTILITY SCALE”, AS SET FORTH IN ARTICLE II, DEFINITIONS OF SECTION 155-13, ENTITLED “TERMS DEFINED” OF CHAPTER 155, AND TO REPEAL AND REENACT SECTION 155-50(LL), ENTITLED “SOLAR ENERGY SYSTEMS, UTILITY SCALE” OF ARTICLE IX, ENTITLED “SUPPLEMENTARY USE REGULATIONS” OF CHAPTER 155 ENTITLED “ZONING” OF THE DORCHESTER COUNTY CODE, PROVIDING FOR THE REGULATION OF SOLAR ENERGY SYSTEMS AND TO AMEND “TABLE OF PERMITTED USES BY ZONING DISTRICT DORCHESTER COUNTY, MARYLAND” OF CHAPTER 155 ENTITLED “ZONING” OF THE DORCHESTER COUNTY CODE TO IMPLEMENT THE ACT.

SECTION ONE: Be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, pursuant to Chapter 155 entitled “Zoning” of the Dorchester County Code (the "Act"), that the following terms defined be added to Article II, Definitions to Section 155-13, entitled “Terms Defined” of Chapter 155, as follows:

**ARTICLE II
Definitions**

§ 155-13. Terms defined.

For the purposes of this chapter, the following definitions apply. Terms identified with the initials “CA” apply county-wide and, where applicable to lands in the critical area, may not be modified without the approval of the Maryland Chesapeake Bay Critical Area Commission. Terms identified with the initials “FP” apply only within the Floodplain District.

SOLAR ENERGY SYSTEM (SES) – Any device or combination of devices including solar collectors, arrays, panels, controls, energy storage devices necessary to the process by which solar radiation is collected, converted into another form of energy, stored and distributed.

SOLAR ENERGY SYSTEM, ACCESSORY – A solar energy system that is engineered and designed to generate energy for a dwelling unit(s), an agricultural use or structure(s), a business, industrial or institutional use. The system may be ground mounted or roof mounted and produces less than 200 kilowatts (200 KW) of power.

SOLAR ENERGY SYSTEM, ROOF MOUNTED – A solar energy system that has its electricity-generating solar panels mounted or resting on the roof of a structure or building.

SOLAR ENERGY SYSTEM, GROUND MOUNTED – A solar energy system consisting of solar modules held in place by racks or frames attached to ground-based mounting supports or resting on the ground.

KILOWATT (KW) – A measure of the use of electrical power equal to 1,000 watts.

MEGAWATT (MW) – A measure of the use of electrical power equal to 1,000 kilowatts.

SECTION TWO: Be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, pursuant to the Act, that the definition of “Solar Energy Systems, Utility Scale”, as set forth in Article II, Definitions of Section 155-13, entitled “Terms Defined” of Chapter 155, by and the same is hereby REPEALED and REENACTED to read as follows:

ARTICLE II Definitions

§ 155-13. Terms defined.

For the purposes of this chapter, the following definitions apply. Terms identified with the initials “CA” apply county-wide and, where applicable to lands in the critical area, may not be modified without the approval of the Maryland Chesapeake Bay Critical Area Commission. Terms identified with the initials “FP” apply only within the Floodplain District.

“SOLAR ENERGY SYSTEM, UTILITY SCALE – A solar energy system that is engineered and designed to produce energy for consumption off-site and produces 200 kilowatts (200 KW) or more of power.”

SECTION THREE: Be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, pursuant to the Act that Section 155-50(LL), entitled “Solar Energy Systems, Utility Scale” of Article IX, entitled “Supplementary Use Regulations” of Chapter 155 entitled “Zoning” of the Dorchester County Code, is, and the same is, hereby REPEALED and REENACTED to read as follows:

Chapter 155

ZONING

ARTICLE IX

Supplementary Use Regulations

§ 155-50. Supplementary use regulations.

The following supplementary use regulations apply in addition to the requirements of the applicable zoning district and any requirements in the Table of Permitted Uses.

LL. Solar Energy Systems

- A. Solar Energy Systems, Accessory
 - a. Roof Mounted
 - i. Shall not extend more than 10 ft. above the surface of the roof.
 - ii. The total height of the building or structure including the SES shall comply with the height limits established in this chapter.
 - iii. Shall be subject to building and electrical permits.
 - b. Ground Mounted
 - i. Shall comply with the required setbacks for accessory structures set forth in this chapter. The setback shall be measured from the closest point on the solar panel surface to the closest property line(s).
 - ii. Shall be placed in the rear and side yard only.
 - iii. Shall be excluded from the size limitations on residential accessory structures set forth in 155-50A of this chapter.
 - iv. Shall be subject to building and electrical permits.
 - v. Shall be located on the same parcel or lot as the structure or use it is serving.
 - vi. If serving a commercial, industrial or institutional use or structure, it shall be screened from public view to the extent practicable. A landscape screening plan must be approved by the Planning Commission before any building permit is issued.
 - vii. The footprint of ground mounted accessory SES shall not exceed one acre.
- B. Solar Energy Systems, Utility Scale. The following requirements apply to utility scale SES:
 - a. Size Limits
 - i. The combined aggregate acreage in the Agricultural Conservation (AC) zoning district utilized throughout the County by all utility scale SES shall not exceed 1200 acres of solar arrays.
 - ii. Utility scale SES shall be located on property with a minimum lot or parcel size of 25 acres. Parcels greater than 50 acres may not be

- subdivided for the purpose of circumventing the minimum standards set forth in this chapter.
- iii. The maximum area allowed to be used for placement/location of solar arrays is 35 acres per parcel.
- b. Setbacks. Utility scale SES are subject to the following setbacks:
- i. Two hundred feet from all property lines and edges of rights-of-way.
 - ii. Five hundred feet from all dwelling units located on adjacent or nearby parcels.
 - iii. Two thousand feet from any designated scenic Byway, any parcel located within a designated Historic District, a municipal boundary or another parcel with an approved utility scale SES.
- c. Screening.
- i. The applicant for a utility scale SES shall submit a landscaping and screening plan prepared by a licensed landscape architect as part of a major site plan to the Planning Commission to provide vegetative screening from adjoining lands and road rights-of-way.
 - ii. The applicant shall provide a minimum of a two hundred foot wide vegetated buffer around the entire perimeter of the site consisting of evergreen trees with a minimum planting height of eight feet, and interspersed with shrubs and low-lying natural vegetation. The Planning Commission shall be satisfied that the landscaping and screening plan provides for a complete visual barrier from the road or any adjoining lands before the site plan is approved.
 - iii. Plant material must consist of a majority of species native to Dorchester County, and shall not include more than 25% of any single species.
 - iv. Existing vegetation within or near a required planting area that meets or exceeds these standards may be used to satisfy screening requirements. In such case, those areas shall be subject to written restrictions on clearing or cutting.
 - v. A planting plan and maintenance agreement for the landscaping and screening plan, along with a surety in the amount of 120% of the cost of labor and materials to plant and maintain the vegetated screening for a period of five (5) years is required as condition of site plan approval. The surety shall be transferable.
 - vi. All required screening shall be maintained in a live, healthy condition for the duration of the project and shall be replaced by the owner of the utility scale SES as necessary to maintain all required screening to the satisfaction of the Planning Commission.
- d. Fencing
- i. All utility scale SES shall be enclosed by a fence to prevent unauthorized persons or vehicles from gaining access. The fence shall be located at the interior edge of the required landscape buffer. The fence shall be no less than six (6) feet in height or greater than eight (8) feet in height. barbed or razor wire is prohibited.
- e. Site Maintenance

- i. The property owner and the utility scale SES owner shall be jointly and severally responsible for compliance with the standards of this subsection.
- f. Prime Soils
 - i. Utility scale SES are to be designed to avoid or minimize impacts to prime soils to the greatest extent possible.
- g. Signage
 - i. A sign, not to exceed four (4) square feet, shall be posted at each entrance to the project. The sign shall include the following; property owner name, SES owner name, their phone numbers and an emergency contact phone number. It is the responsibility of both the property owner and SES owner to keep the information on the sign current.
 - ii. Signage indicating “DANGER – HIGH VOLTAGE-KEEP OUT” shall be posted along the perimeter of utility scale SES projects.
 - iii. No other signage shall be permitted without the approval of the Planning Commission.
- h. Abandonment and Decommissioning
 - i. The operator of a utility scale SES shall provide written notice to the Director of Planning whenever the SES is out of active production for six consecutive months.
 - ii. Any utility scale SES that has not operated for a continuous period of twelve (12) months shall be considered unused and abandoned and the special exception use will expire unless the Board of Appeals grants an extension. The owner of the utility scale SES must present compelling evidence that the cessation of production occurred from causes beyond its control, that there was no intent to abandon, and that resumption is reasonably practicable.
 - iii. Upon a written determination by the Director that the utility scale SES has been abandoned or upon receipt of a letter from the operator of the SES that the use has been abandoned, the SES operator shall, within six (6) months, remove or cause to be removed the SES and restore the site. Removal includes removing any underground structures or supports and electrical transmission wire. All materials must be removed from the site and the site must be restored to its original condition in accordance with a decommissioning plan.
 - iv. A decommissioning plan shall be presented to be approved by the Planning Commission as a condition of site plan approval and shall include the following:
 - 1. The expected life of the SES.
 - 2. Time frame for decommissioning.
 - 3. Cost estimate for removal of SES and site restoration.
 - 4. Acknowledgement that an approved Soil and Erosion Control Plan will be required prior to any site work.
 - 5. Places for the removal of all above and underground equipment, structures, fencing and access roads.

6. Only like-kind top soil may be used for restoration.
 7. Legal documents establishing the legal responsibility for any environmental pollution that occurs after the SES is removed.
 8. An End Use plan showing the following:
 - a. The proposed condition and anticipated use of the site once the SES has been removed.
 - b. The property owner may request to retain any planted landscape screening, fencing and access roads.
 9. A surety bond or guarantee satisfactory to the Planning Commission providing financial security for 100% of the estimated decommissioning cost.
- i. Permits Required.
- i. No utility scale SES shall begin construction until a building permit has been issued by the Director.
 - ii. For those utility scale SES projects that require a Certificate of Need and Public Convenience (CPCN) from the Maryland Public Service Commission, the Director shall not issue a building permit until the CPCN has been issued.
 - iii. A Certificate of Use from the Director is required before any utility scale SES may become operational. The Director may not issue said Certificate until satisfied that the utility scale SES complies with all conditions of the approved site plan and attendant agreements, conditions of the issued building permit, and all other conditions of this subsection has been submitted, reviewed, and approved.

SECTION FOUR: Be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, that under the use category “Utilities”, use “Solar Energy Systems, Utility Scale” in the “Table of Permitted Uses by Zoning District Dorchester County, Maryland” of Chapter 155 entitled “Zoning” of the Dorchester County Code, the “S” under the heading of AC-RCA is hereby deleted and the space left blank, and be it further ENACTED and ORDAINED that under the use category “Unclassified”, the following use “Solar Energy System Accessory” is added and that the “A” is added under the heading for every zoning district listed, in 155 Attachment 1, entitled “Table of Permitted Uses by Zoning District Dorchester County, Maryland” of Chapter 155 entitled “Zoning” of the Dorchester County Code, all as provided for in Exhibit “A” attached hereto and incorporated herein by reference.

SECTION FIVE: Be it further ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, that upon approval, General Code Publishers is directed to codify the amendments herein enacted to Chapter 155 of the Dorchester County Code entitled “Zoning”.

SECTION SIX: Be it further ENACTED, pursuant to Section 308 of the Charter of Dorchester County, Maryland, that promptly after enactment of this Act, the County Manager shall cause a fair summary of this Act to be published at least once in a newspaper of general circulation in Dorchester County, Maryland.