

COUNTY ORDINANCE NO. 21-04

A BILL ENTITLED

AN ACT CONCERNING the Utility Scale Solar Array (USSA) District in Queen Anne's County;

FOR THE PURPOSE of revising and updating the provisions regarding the Utility-Scale Solar Array (USSA) District in the Queen Anne's County Zoning Ordinance; regulating the location of utility scale solar arrays located outside of the USSA District; providing for compliance of such arrays with conditional use standards and requirements; providing for perpetual conservation easements in connection with such arrays; establishing requirements for such conservation easements; and generally updating and revising the regulation of utility scale solar arrays in Queen Anne's County, Maryland.

BY AMENDING Section 18:1-38.1 of Chapter 18:1 of the Code of Public Local Laws of Queen Anne's County;

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND that Section 18:1-38.1 of the Code of Public Local Laws be and is hereby AMENDED to read as follows:

(**Bold** indicates language proposed to be added to the County Code. ~~Strike-through~~ indicates language proposed to be deleted from the County Code. *Italic* indicates the term is defined in APPENDIX – a Glossary.)

§ 18:1-38.1. Utility Scale Solar Array (USSA) District.

A. Purpose.

- (1) To create a zone to allow *utility-scale solar arrays*, as defined in Chapter 18App, Appendix A: Glossary, in a specified area of the *County*.

- (2) To add additional requirements for *utility-scale solar arrays*, including setbacks from residential and other *uses*.
- (3) To provide landscape *screening* from adjacent properties, *roads*, rights-of-way to prevent *glare*, noise, visually unattractive appearance or other adverse impacts to adjoining properties.
- (4) To provide for the removal of *utility-scale solar arrays* at the termination of the *use*.

B. *Utility-scale solar arrays*:

- (1) Shall be permitted only as a conditional *use* in the Agricultural (AG) and Countryside (CS) Districts **and located:**
 - (a) Within a two-mile radius on either side of the electric transmission lines with a capacity equal to or greater than 69 kV as identified on the Utility Scale Solar Array Overlap (USSA) District Map; **or**
 - (b) **Outside of the two-mile radius described by (a), only on parcel(s) that are partially located within the two-mile radius described by (a), subject to the following:**
 - i.** All utility-scale solar array improvements located outside of the two-mile radius must comply with all conditional use standards and requirements found in §18:1-95.S and applicable to the USSA;
 - ii.** The applicant must obtain and establish by duly executed, recorded instrument, prior to commencement of construction of the utility-scale solar array, a perpetual conservation easement that satisfies the following requirements:
 - a.** The conservation easement shall protect an area of agricultural land in the Agricultural (AG) District or Countryside (CS) District equal to one acre for every acre of land located outside of the two-mile radius that is

developed for the utility-scale solar array or associated improvements;

- b. The area deemed developed for purposes of calculating the conservation acreage required by this subsection shall consist of: (1) the entire area enclosed by the security fence required by Section 18:1-95 (S)(4)(e), which generally consists of driveways, substations, solar arrays, and stormwater structures, and (2) required landscape buffers, but shall not include areas outside the fence associated with the solar project, such as areas of forest conservation;**
- c. Lands eligible to meet the conservation requirements of this subsection may be located on any eligible agricultural land throughout the entire Agricultural (AG) District or Countryside (CS) District, whether on the same parcel or parcels where the utility-scale solar array is to be established, parcels adjacent thereto, or elsewhere, and without regard to whether the land to be conserved is owned by the owner of the land where the utility-scale solar array is located;**
- d. Only lands or portions thereof that are not currently subject to any kind of perpetual conservation easement are eligible to meet the conservation requirement of this subsection;**
- e. Lands that are eligible for conservation under this subsection shall be prioritized as follows:**
 - i. At least 50% of the land to be conserved shall consist of USDA Soil Capability Class I, II, or III; or**

iv. The conservation requirement of this subsection may be met without regard to differences between the number of development rights on the parcel where the utility-scale solar array is located and the number of such rights being retired on the newly conserved lands, provided that any Reservation of Resource Conservation Area Density Rights Agreement required by COMAR 27.01.14.05 shall not be affected by this provision;

- (2) Shall not be on a parcel with conservation or *open space easement(s)* as recorded in the Land Records of Queen Anne's County or otherwise designated through agreement, **except that a conservation easement established for purposes of (1)(b) above may partially encumber a property proposed for solar development, provided that no solar improvements or landscape buffers are located within the protected easement area;**
- (3) Shall not be on a parcel within a greenbelt designation or a municipal *growth area* as identified in the ~~2010~~ Queen Anne's County *Comprehensive Plan* as amended or a Queen Anne's County municipality's community plan;
- (4) Shall not be permitted on a parcel reconfigured through *administrative subdivision* for the purpose of adding additional acreage to the area available for *utility-scale solar arrays*;
- (5) Shall comply with all applicable federal and state regulations, including but not limited to obtaining a certificate of public convenience and necessity from the Public Service Commission if required, and in the removal and disposal of the *utility-scale solar array* and all of its components;
- (6) Shall comply with all standards in § 18:1-95S.

SECTION II

BE IT FURTHER ENACTED that this Ordinance shall take effect on the

forty-sixth (46th) day following its adoption.

INTRODUCED BY: Commissioner Moran

DATE INTRODUCED 3/22/22

PUBLIC HEARING HELD: May 24, 2022 @5:40

VOTE: 5 Yea Nay

DATE OF ADOPTION: 6/14/22

EFFECTIVE DATE: 7/30/22