

Kent County Solar and Wind Zoning

This document provides a compilation of excerpts from the Kent County Land Use Ordinance applicable to the siting of solar and wind projects. Specifically, the excerpts include definitions of solar and wind projects, zoning exclusions, use regulations, and setback and height regulations for solar and wind structures.

Guidance for Viewing Excerpts

SOLAR

Summary

- The Kent County Land Use Ordinance uses the term “Solar Energy System, Utility Scale” to refer to large-scale solar energy projects, and defines them as generating energy primarily for use off-site.
 - Permitted use in the following zoning districts: Agricultural, Resource Conservation, Crossroads Commercial, Commercial, Commercial Critical Area, Employment Center, and Industrial.
 - Permitted use, by special exception, on farmland.

Relevant Sections of the Kent County Code

- **Land Use Ordinance, Kent County, MD**
 - Article V: District Regulations: Special Exceptions for Zoning Districts: Agricultural (Section 1.3 26.5), Resource Conservation (Section 2.3 19), Rural Character (Section 3.3 26), Rural Residential (Section 4.3 26), Crossroads Commercial (Section 10.3 6.5), Commercial (Section 11.3 8.5), Commercial Critical Area (Section 12.3 5.5).
 - Article VI. Special Provisions: Countywide Standards for Utility-Scale Solar Energy Systems (Section 11)
 - Article VIII: Special Exception: Regulations on Farms (Section 7.7 57.25), Regulations (Section 7.7 57.5).
 - Article XI: Definitions: Definition of “Solar Energy System, utility scale” (Section 2 305.25).

SMALL SOLAR

Summary

- The Kent County Land Use Ordinance uses the term “Solar Energy System, Small” to refer to small-scale solar energy projects, and defines them as generating energy primarily for use on-site.
 - Permitted use in all zoning districts.

Relevant Sections of the Kent County Code

- **Land Use Ordinance, Kent County, MD**
 - Article V: District Regulations: Accessory Uses and Structure on Farms: Agricultural (Section 1.4 13.5), Resource Conservation (Section 2.4A 20). Accessory Uses and Structures: Resource Conservation (Section 2.4B 12.5), Rural Character (Section 3.4B 12.5), Rural Residential (Section 4.3B 12.5), Critical Area Residential (Section 5.4 13.5), Community Residential (Section 6.4B 12.5), Village (Section 7.4 11.5), Intense Village (Section 8.4 12.5), Intense Village Critical Area (Section 9.4 12.5), Crossroads Commercial (Section 10.4 6), Commercial (Section 11.4 6), Commercial Critical Area (Section 12.4 6), Marine (Section 13.4 8.5), Employment Center (Section 14.4 6.25), Industrial (Section 15.4 6.25), Industrial Critical Area – LDA (Section 16.3 6.25), Industrial Critical Area (Section 17.3 6.25).
 - Article XI: Definitions: Definition of “Solar Energy System, Small” (Section 2 301.5).

WIND

Summary

- The Kent County Land Use Ordinance has no specific zoning regulations surrounding large-scale wind energy projects. However, in April 2016, the “Renewable Energy Task Force” voted unanimously that utility-scale wind energy systems are not consistent with the intent of the Ordinance or the County’s Comprehensive Plan.

Relevant Sections of the Kent County Code

- Summary from 04/29/2016 "Renewable Energy Task Force" meeting.

SMALL WIND

Summary

- The Kent County Land Use Ordinance uses the term “Wind Energy System, Small” to refer to small wind projects.
 - Wind Energy System, Small project that does not exceed 80 feet in total height: permitted as accessory use in all zoning districts.
 - Wind Energy System, Small project that exceeds 80 feet in total height or on parcels less than 20 acres: permitted, by special exception, in all zoning districts.

Relevant Sections of the Kent County Code

- **Land Use Ordinance, Kent County, MD**
 - Article V: District Regulations: Special Exceptions for Zoning Districts: Agricultural (Section 1.3 29), Resource Conservation (Section 2.3 20), Critical Area Residential (Section 5.3 23), Community Residential (Section 6.3 21), Village (Section 7.3 13), Intense Village (Section 8.3 17), Intense Village Critical Area (Section 9.3 18), Crossroads Commercial (Section 10.3 8), Commercial (Section 11.3 12), Commercial Critical Area (Section 12.3 7), Employment Center (Section 14.2 3), Industrial (Section 15.3 4), Industrial Critical Area – LDA (Section 16.2.5 1), Critical Area (Section 17.2.5 1). Accessory Use and Structure on Farms: Agricultural (Section 1.4 11), Resource Conservation (Section 2.4A 8), Rural Character (Section 3.4A 10), Rural Residential (Section 4.3A 10), Community Residential (Section 6.4A 10). Accessory Uses and Structures: Resource Conservation (Section 2.4B 14), Crossroads Commercial (Section 10.4 8), Commercial (Section 11.4 8), Commercial Critical Area (Section 12.4 8), Marine (Section 13.4 11), Employment Center (Section 14.4 8), Industrial (Section 15.4 8), Industrial Critical Area – LDA (Section 16.3 8), Industrial Critical Area (Section 17.3 8).
 - Article VI: Special Provisions: Height Regulations (Section 3.2 1). Article VIII: Special Exception: Regulations (Section 7.7 63, 64, 65).
 - Article XI: Definitions: Definition of “Wind Energy System, Small” (Section 2 355.5).

FILED
CLERK OF CIRCUIT COURT
THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

August 2, 2011
Legislative Session Day

2011 SEP 9 AM 10 38

Legislative Session Day
August 2, 2011

CODE HOME RULE
BILL NO. 5-2011

INTRODUCED BY: Ronald H. Fithian, President of the Board of County Commissioners of Kent County, Maryland at the request of the Kent County Planning Commission.

AN ACT to amend. Article V, Sections 1.3 (Agricultural Zoning District – Special Exceptions), 1.4 (Agricultural Zoning District – Accessory Uses), 2.3 (Resource Conservation District – Special Exceptions), 2.4 (Resource Conservation District – Accessory Uses), 3.3 (Rural Character District – Special Exceptions), 3.4 (Rural Character District– Accessory Uses), 4.3 (Rural Residential – Special Exceptions), 4.4 (Rural Residential – Accessory Uses), 5.3 (Critical Area Residential – Special Exceptions), 5.4 (Critical Area Residential – Accessory Uses), 6.3 (Community Residential – Special Exceptions), 6.4 (Community Residential – Accessory Uses), 7.3 (Village - Special Exceptions), 7.4 (Village – Accessory Uses), 8.3 (Intense Village – Special Exceptions), 8.4 (Intense Village – Accessory Uses), 9.3 (Intense Village Critical Area – Special Exceptions) 9.4 (Intense Village Critical Area – Accessory Uses), 10.3 (Crossroads Commercial - Special Exceptions), 10.4 (Crossroads Commercial - Accessory Uses), 11.3 (Commercial – Special Exceptions), 11.4 (Commercial – Accessory Uses), 12.3 (Commercial Critical Area – Special Exceptions), 12.4 (Commercial Critical Area – Accessory Uses), 13.4 (Marine – Accessory Uses), 14.3 (Employment Center – Special Exceptions), 14.4 (Employment Center – Accessory Uses), 15.3 (Industrial – Special Exceptions), 15.4 (Industrial – Accessory Uses), 16.2.5 (Industrial District - Critical Area – LDA – Special Exceptions), 16.3 (Industrial District - Critical Area – LDA – Accessory Uses) 17.2.5 (Industrial District - Critical Area – Special Exceptions), 17.3 (Industrial District - Critical Area – Accessory Uses); Article VI, Section 3.2 (Supplementary Regulations - Modifications of Height Regulations); Article VII, 7.6 (Special Exceptions – Procedures), 7.7 (Special Exceptions – Special Exceptions); and XI Section 2 (Definitions) of the Kent County Land Use Ordinance to add new provisions relating to wind and solar energy systems.

THE COUNTY COMMISSIONERS OF KENT COUNTY



Ronald H. Fithian, President

BILL NO. 5-2011


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CAPITALS INDICATED MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

INTRODUCED, read first time, August 2, 2011, ordered posted and public hearing scheduled on the 23rd day of August, 2011 at 7:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By Order of:



Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on August 23, 2011. Reported favorably [with] ~~[without]~~ amendments; read second time and ordered to be considered on September 6, 2011, a legislative session day.

A BILL ENTITLED

AN ACT to amend Article V, Sections 1.3 (Agricultural Zoning District – Special Exceptions), 1.4 (Agricultural Zoning District – Accessory Uses), 2.3 (Resource Conservation District – Special Exceptions), 2.4 (Resource Conservation District – Accessory Uses), 3.3 (Rural Character District - Special Exceptions), 3.4 (Rural Character District– Accessory Uses), 4.3 (Rural Residential – Special Exceptions), 4.4 (Rural Residential – Accessory Uses), 5.3 (Critical Area Residential – Special Exceptions), 5.4 (Critical Area Residential – Accessory Uses), 6.3 (Community Residential – Special Exceptions), 6.4 (Community Residential – Accessory Uses), 7.3 (Village - Special Exceptions), 7.4 (Village – Accessory Uses), 8.3 (Intense Village – Special Exceptions), 8.4 (Intense Village – Accessory Uses), 9.3 (Intense Village Critical Area – Special Exceptions) 9.4 (Intense Village Critical Area – Accessory Uses), 10.3 (Crossroads Commercial - Special Exceptions), 10.4 (Crossroads Commercial - Accessory Uses), 11.3 (Commercial – Special Exceptions), 11.4 (Commercial – Accessory Uses), 12.3 (Commercial Critical Area – Special Exceptions), 12.4 (Commercial Critical Area – Accessory Uses), 13.4 (Marine – Accessory Uses), 14.3 (Employment Center – Special Exceptions), 14.4 (Employment Center – Accessory Uses), 15.3 (Industrial – Special Exceptions), 15.4 (Industrial – Accessory Uses), 16.2.5 (Industrial District - Critical Area – LDA – Special Exceptions), 16.3 (Industrial District - Critical Area – LDA – Accessory Uses) 17.2.5 (Industrial District - Critical Area – Special Exceptions), 17.3 (Industrial District - Critical Area –Accessory Uses); Article VI, Section 3.2 (Supplementary Regulations - Modifications of Height Regulations); Article VII, 7.6 (Special Exceptions – Procedures), 7.7 (Special Exceptions – Special Exceptions); and XI Section 2 (Definitions) of the Kent County Land Use Ordinance to add new provisions relating to wind and solar energy systems.

BILL NO. 5-2011

2

CAPITALS INDICATED MATTER ADDED TO EXISTING LAW.

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Whereas, Kent County recognizes the advantages of using renewable energy systems such as solar and wind energy systems; and

Whereas, a strategy of the Kent County Comprehensive Plan is to encourage the design and operation of buildings to achieve effective utilization of energy and water and to use alternative sources of energy; therefore

SECTION 1. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 1.3 (Agricultural Zoning District – Special Exceptions) as follows:

26.5 SOLAR ENERGY SYSTEMS, UTILITY SCALE ON FARMS

29. WIND ENERGY SYSTEMS, SMALL, WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON PARCELS LESS THAN 20 ACRES

SECTION 2. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 1.4 (Agricultural Zoning District – Accessory Uses and Structures on farms) as follows:

11. WIND ENERGY SYSTEMS, SMALL PROVIDED:

- a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
- b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
- d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
- e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
- f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
- g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
- h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 3. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 1.4B (Agricultural Zoning District – Accessory Uses and Structures) as follows:

- 13.5 SOLAR ENERGY SYSTEMS, SMALL, PROVIDED:
 - a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.
 - b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

15. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:
 - a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
 - b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 4. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 2.3 (Resource Conservation District – Special Exceptions) as follows:

19. SOLAR ENERGY SYSTEMS, UTILITY SCALE, ON FARMS

20. WIND ENERGY SYSTEMS, SMALL, WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON PARCELS LESS THAN 20 ACRES

SECTION 5. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 2.4A (Resource Conservation District – Accessory Uses and Structures on farms) as follows:

8. WIND ENERGY SYSTEMS, SMALL PROVIDED:
 - a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;

- b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
- d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
- e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
- f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
- g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
- h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 6. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 2.4B (Resource Conservation Districts – Accessory Uses and Structures) as follows:

12.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

14. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:

- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
- b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 7. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 3.3 and 4.3 (Rural Character District and Rural Residential – Special Exceptions) as follows:

26. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON PARCELS LESS THAN 20 ACRES

SECTION 8. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 3.4A and 4.3A (Rural Character District and Rural Residential – Accessory Uses and Structures on farms) as follows:

10. WIND ENERGY SYSTEMS, SMALL PROVIDED:
 - a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
 - b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
 - d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
 - e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
 - f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
 - g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
 - h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 9. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 3.4B and 4.4B (Rural Character District and Rural Residential – Accessory Uses and Structures) as follows:

- 12.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:
 - a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.

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CAPITALS INDICATED MATTER ADDED TO EXISTING LAW.

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- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.
14. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:
- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
 - b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 10. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 5.3 (Critical Area Residential – Special Exceptions) as follows:

- 23. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON PARCELS LESS THAN 20 ACRES

SECTION 11. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 5.4 (Critical Area Residential - Accessory Uses and Structures) as follows:

- 13.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:
- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
 - b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.
15. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:
- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS

- b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 12. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 6.3 (Community Residential - Special Exceptions) as follows:

- 21. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON PARCELS LESS THAN 20 ACRES

SECTION 13. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 6.4A (Community Residential - Accessory Uses and Structures on farms) as follows:

- 10. WIND ENERGY SYSTEMS, SMALL PROVIDED:
 - a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
 - b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
 - d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
 - e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
 - f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
 - g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
 - h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 14. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 6.4B (Community Residential - Accessory Uses and Structures) as follows:

BILL NO. 5-2011

8

CAPITALS INDICATED MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

- 12.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:
- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.
 - b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.
14. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:
- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
 - b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 15. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 7.3 (Village - Special Exceptions) as follows:

13. WIND ENERGY SYSTEMS, SMALL

SECTION 16. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 7.4 (Village - Accessory Uses and Structures) as follows:

- 11.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:
- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.
 - b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

13. Temporary MET Tower of any height provided:
 - a. The tower is erected for no more than 12 months
 - b. Any free standing structure is located a minimum of 3 times its total height from a property line; and
 - c. Towers are not readily climbable from the ground up to 12 feet.

SECTION 17. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 8.3 (Intense Village - Special Exceptions) as follows:

17. WIND ENERGY SYSTEMS, SMALL

SECTION 18. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 8.4 (Intense Village - Accessory Uses and Structures) as follows:

12.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.
- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

13.5. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:

- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
- b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 19. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 9.3 (Intense Village Critical Area - Special Exceptions) as follows:

18. WIND ENERGY SYSTEMS, SMALL

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CAPITALS INDICATED MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

SECTION 20. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 9.4 (Intense Village Critical Area - Accessory Uses and Structures) as follows:

12.5 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

13.5. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:

- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
- b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

SECTION 21. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 10.3 (Crossroads Commercial - Special Exceptions) as follows:

6.5 SOLAR ENERGY SYSTEMS, UTILITY SCALE

8. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

SECTION 22. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 10.4 (Crossroads Commercial - Accessory Uses and Structures) as follows:

6. SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.

- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.
7. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:
- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
 - b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.
8. WIND ENERGY SYSTEMS, SMALL LIMITED TO ONE TOWER PROVIDED:
- a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
 - b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
 - d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
 - e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
 - f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
 - g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
 - h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 23. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 11.3 (Commercial - Special Exceptions) as follows:

8.5 SOLAR ENERGY SYSTEMS, UTILITY SCALE

12. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

SECTION 24. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 11.4 (Commercial - Accessory Uses and Structures) as follows:

6. SOLAR ENERGY SYSTEMS, SMALL PROVIDED:
 - a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED AT A RATIO OF ONE TREE PLANTED FOR EACH TREE REMOVED.
 - b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

7. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:
 - a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
 - b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

8. WIND ENERGY SYSTEMS, SMALL LIMITED TO ONE TOWER PROVIDED:
 - a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
 - b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
 - d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
 - e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
 - f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
 - g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND

- h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 25. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 12.3 (Commercial Critical Area- Special Exceptions) as follows:

5.5 SOLAR ENERGY SYSTEMS, UTILITY SCALE

7. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

SECTION 26. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 12.4 (Commercial Critical Area - Accessory Uses and Structures) as follows:

6. SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

7. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:

- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
- b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

8. WIND ENERGY SYSTEMS, SMALL LIMITED TO ONE TOWER PROVIDED:

- a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
- b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;

- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
- d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
- e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
- f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
- g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
- h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 27. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Section 13.4 (Marine - Accessory Uses and Structures) as follows:

8.5. SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

10. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:

- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
- b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.

11. WIND ENERGY SYSTEMS, SMALL LIMITED TO ONE TOWER PROVIDED:

- a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;

- b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
- c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
- d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
- e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
- f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
- g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
- h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 28. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 14.3 (Employment Center - Special Exceptions) as follows:

- 3. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

SECTION 29. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article V, Sections 14.4, 15.4, 16.3, and 17.3 (Employment Center, Industrial, Industrial Critical Area -LDA and Industrial Critical Area - Accessory Uses and Structures) as follows:

- 6.25 SOLAR ENERGY SYSTEMS, SMALL PROVIDED:

- a. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- b. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- c. THE TOTAL HEIGHT OF SOLAR COLLECTION SYSTEMS SHALL COMPLY WITH THE HEIGHT REQUIREMENTS.

- 6.5. TEMPORARY MET TOWER OF ANY HEIGHT PROVIDED:

- a. THE TOWER IS ERECTED FOR NO MORE THAN 12 MONTHS
 - b. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE; AND
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET.
8. WIND ENERGY SYSTEMS, SMALL LIMITED TO ONE TOWER PROVIDED:
- a. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 80 FEET;
 - b. ANY SYSTEM IS LOCATED A MINIMUM OF 3 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE;
 - c. TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET;
 - d. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE;
 - e. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT;
 - f. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET
 - g. WIND TURBINES AND TOWERS MAINTAIN A GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR; AND
 - h. ANY SMALL WIND ENERGY SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.

SECTION 30. BE IT ENACTED by the County Commissioners of Kent County, Maryland that a new subsection be added to the Kent County Land Use Ordinance, Article V, Section 15.3 (Industrial- Special Exceptions) as follows:

- 4. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

SECTION 31. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new sections and subsections be added to the Kent County Land Use Ordinance, Article V, Sections 16 and 17 (Industrial and Industrial Critical Area) as follows:

16.2.5 SPECIAL EXCEPTIONS

THE FOLLOWING PRINCIPAL USES AND STRUCTURES MAY BE PERMITTED AS SPECIAL EXCEPTIONS IN THE INDUSTRIAL CRITICAL AREA – LDA DISTRICT, SUBJECT TO

BILL NO. 5-2011

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CAPITALS INDICATED MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

SITE PLAN REVIEW. DETAILED LIMITATIONS AND STANDARDS FOR THESE USES MAY BE FOUND IN ARTICLE VII OF THIS ORDINANCE.

- 1. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

17.2.5 SPECIAL EXCEPTIONS

THE FOLLOWING PRINCIPAL USES AND STRUCTURES MAY BE PERMITTED AS SPECIAL EXCEPTIONS IN THE INDUSTRIAL CRITICAL AREA DISTRICT, SUBJECT TO SITE PLAN REVIEW. DETAILED LIMITATIONS AND STANDARDS FOR THESE USES MAY BE FOUND IN ARTICLE VII OF THIS ORDINANCE.

- 1. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET

SECTION 32. BE IT ENACTED by the County Commissioners of Kent County, Maryland that the Kent County Land Use Ordinance Article VI, Section 3.2.1 be and is hereby repealed; and

BE IT FURTHER ENACTED THAT A NEW SECTION is hereby enacted in lieu thereof to read as follows:

3.2. MODIFICATION OF HEIGHT REGULATIONS

- 1. EXCEPT WITHIN AN AREA DEFINED AS AN AIRPORT APPROACH ZONE BY THE FEDERAL AVIATION AGENCY OR IN THE KENT COUNTY AIRPORT SAFETY AREA, THE HEIGHT LIMITATIONS OF THIS ORDINANCE SHALL NOT APPLY TO:

- | | |
|--|---|
| BELFRIES | ORNAMENTAL TOWERS AND SPIRES |
| CHURCH SPIRES | PUBLIC MONUMENTS |
| CONVEYORS | SILOS AND CORN DRYERS |
| ELEVATOR BULKHEADS | STAGE TOWERS OR SCENERY |
| | LOFTS |
| FIRE TOWERS | TANKS |
| FLAG POLES | WATER TOWERS AND STAND PIPES |
| PERSONAL WIRELESS FACILITY, COMMERCIAL RADIO, AND TELEVISION TOWERS LESS THAN 200 FEET IN HEIGHT | WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT NOT TO EXCEED 80 FEET UNLESS A SPECIAL EXCEPTION IS GRANTED. |

SECTION 33. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article VII, Section 7.6(Procedures) as follows:

41.25 SOLAR ENERGY SYSTEMS, UTILITY SCALE

41.5. SOLAR ENERGY SYSTEMS, UTILITY SCALE ON FARMS

46 WIND ENERGY SYSTEMS, SMALL

47. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON A LOT LESS THAN 20 ACRES

SECTION 34. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article VII, Section 7.7(Special Exceptions) as follows:

57.25 SOLAR ENERGY SYSTEMS, UTILITY SCALE ON FARMS IN AZD AND RCD PROVIDED:

- a. A SOLAR COLLECTION DEVICE OR COMBINATION OF DEVICES ARE DESIGNED AND LOCATED TO AVOID GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS AND SHALL NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.
- b. SCREENING, CAPABLE OF PROVIDING YEAR-ROUND SCREENING, IS PROVIDED ALONG ALL SIDES THAT DO NOT COLLECT ENERGY.
- c. ROOF MOUNTED SOLAR COLLECTION DEVICES SHALL NOT EXTEND MORE THAT 10 FEET FROM THE TOP OF THE ROOF. THE TOTAL HEIGHT OF THE BUILDING INCLUDING THE SOLAR COLLECTION DEVICES SHALL COMPLY WITH THE HEIGHT REGULATIONS ESTABLISHED FOR EACH ZONING DISTRICT.
- d. SOLAR COLLECTION DEVICES SHALL NOT EXCEED 38 FEET IN HEIGHT.
- e. THE SOLAR COLLECTION SYSTEM SHALL BE INCIDENTAL TO THE USE OF THE FARM.
- f. INSTALLATION OF THE SOLAR COLLECTION SYSTEM SHALL NOT ADVERSELY IMPACT ADJACENT PROPERTIES.

- g. ALL STRUCTURES ASSOCIATED WITH THE SOLAR COLLECTION SYSTEM SHALL BE NEITHER VISUALLY INTRUSIVE NOR INAPPROPRIATE TO THEIR SETTING.
- h. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
- i. OTHER THAN WIRE SIZE, THERE SHALL BE NO ALTERATION OF UTILITY INFRASTRUCTURE TO ACCOMMODATE SYSTEM.
- j. AREA OF USE MAY NOT EXCEED 5 ACRES ONSITE. ADJACENT PROPERTIES SHALL NOT AGGREGATE SOLAR COLLECTION PANELS TO ACHIEVE AN AREA EXCEEDING 5 ACRES.
- k. IN AZD, AREA DEVELOPED BY UTILITY SCALE SOLAR ENERGY SYSTEM IS CONSIDERED DEVELOPMENT AND COUNTED TOWARD THE MAXIMUM PERCENTAGE OF THE PROPERTY IN LOTS.
- l. TREE REMOVAL SHALL BE MINIMIZED AND ANY REMOVAL SHALL BE MITIGATED IN ACCORDANCE WITH THE CRITICAL AREA PROGRAM REQUIREMENTS.
- m. THE APPLICANT SHALL DEMONSTRATE THAT A UTILITY SOLAR ENERGY SYSTEM SHALL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.

57.5 SOLAR ENERGY SYSTEMS, UTILITY SCALE IN CC, C, AND CCA PROVIDED:

- a. A SOLAR COLLECTION DEVICE OR COMBINATION OF DEVICES ARE DESIGNED AND LOCATED TO AVOID GLARE OR REFLECTION ONTO ADJACENT PROPERTIES AND ADJACENT ROADWAYS AND SHALL NOT INTERFERE WITH TRAFFIC OR CREATE A SAFETY HAZARD.
- b. SCREENING, CAPABLE OF PROVIDING YEAR-ROUND SCREENING, IS PROVIDED ALONG ALL SIDES THAT DO NOT COLLECT ENERGY.
- c. ROOF MOUNTED SOLAR COLLECTION DEVICES SHALL NOT EXTEND MORE THAN 10 FEET FROM THE TOP OF THE ROOF. THE TOTAL HEIGHT OF THE BUILDING INCLUDING THE SOLAR COLLECTION DEVICES SHALL COMPLY WITH THE HEIGHT REGULATIONS.
- d. SOLAR COLLECTION DEVICES SHALL NOT EXCEED 45 FEET IN HEIGHT.

- e. ALL SOLAR COLLECTION DEVICES SHALL REGISTER WITH THE DEPARTMENT OF EMERGENCY SERVICES AND SHALL SUBMIT A MAP NOTING THE LOCATION OF THE SOLAR COLLECTION DEVICES AND THE PANEL DISCONNECT.
 - f. THE APPLICANT SHALL DEMONSTRATE THAT A UTILITY SOLAR ENERGY SYSTEM SHALL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.
63. WIND ENERGY SYSTEMS, SMALL, WITH A HEIGHT THAT EXCEEDS 80 FEET OR ON PARCELS LESS THAN 20 ACRES IN AZD, RCD, RC, RR, CAR, AND CR PROVIDED:
- a. IF AN ALTERNATIVE ENERGY SOURCE CAN PRODUCE EQUAL ENERGY, THEN THAT SHOULD BE USED RATHER THAN A TALL TOWER WHICH IMPACTS THE LANDSCAPE.
 - b. IF CO-LOCATION WITH A PERSONAL WIRELESS FACILITY IS PROPOSED, THEN A NEED FOR THE PERSONAL WIRELESS FACILITY TOWER MUST BE DOCUMENTED AND ALL APPROPRIATE STUDIES SUBMITTED. IN ADDITION, THE PROPOSED TOWER MUST COMPLY WITH ALL STANDARDS FOR BOTH WIND TURBINES AND PERSONAL WIRELESS FACILITIES.
 - c. THE APPLICANT SHALL PROVIDE A REPORT DOCUMENTING THAT THE WIND ENERGY SYSTEM DOES NOT SIGNIFICANTLY IMPACT MIGRATORY BIRD PATHWAYS.
 - d. THE WIND ENERGY SYSTEM SHALL NOT BE LOCATED WITHIN THE AIR PATH OF A PRIVATE OR PUBLIC AIR STRIP.
 - e. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 120 FEET.
 - f. A SMALL ENERGY SYSTEM SHALL NOT HAVE MORE THAN ONE WIND TURBINE PER PARCEL.
 - g. MONOPOLES OR LATTICE TOWERS SHALL BE THE PREFERRED TOWER STRUCTURE IN THE COUNTY.
 - h. GUY WIRES ARE STRICTLY PROHIBITED.
 - i. SMALL WIND ENERGY SYSTEMS MAY NOT BE LOCATED WITHIN THE BUFFER OR WITHIN A STREAM PROTECTION CORRIDOR.

- j. SMALL ENERGY WIND SYSTEMS SHALL NOT BE ARTIFICIALLY LIT UNLESS SUCH LIGHTING IS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION.
- k. SMALL ENERGY WIND SYSTEMS SHALL BE GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR OR FINISH THAT CONFORMS TO THE ENVIRONMENT AND ARCHITECTURE OF THE COMMUNITY, UNLESS FEDERAL AVIATION ADMINISTRATION REGULATIONS REQUIRE OTHERWISE.
- l. ALL SIGNS, INCLUDING FLAGS, STREAMERS, AND DECORATIVE ITEMS, BOTH TEMPORARY AND PERMANENT, ARE PROHIBITED ON A SMALL ENERGY WIND SYSTEM EXCEPT THE MANUFACTURER OR INSTALLER'S IDENTIFICATION OR APPROPRIATE WARNING SIGNS OR PLACARDS.
- m. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 1.5 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE.
- n. EITHER TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET OR ARE FENCED.
- o. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE.
- p. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT.
- q. THE BLADE TIP AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET.
- r. ANY SMALL ENERGY WIND SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.
- s. SMALL WIND ENERGY SYSTEMS SHALL BE SITED IN A MANNER THAT DOES NOT RESULT IN SIGNIFICANT SHADOW FLICKER.
- t. A SMALL WIND ENERGY SYSTEM, INCLUDING WIND TURBINE AND TOWER, SHALL COMPLY WITH ALL APPLICABLE CONSTRUCTION AND ELECTRICAL CODES.
- u. AUDIBLE SOUND DUE TO WIND TURBINE OPERATIONS SHALL NOT EXCEED 55 DB (A) EXCEPT DURING SHORT-TERM EVENTS SUCH AS UTILITY OUTAGES AND/OR SEVERE WINDSTORMS. THE SOUND LEVEL SHALL BE MEASURED AT GROUND LEVEL AT THE PROPERTY LINE.
- v. ANY SMALL WIND ENERGY SYSTEM FOUND TO BE UNSAFE SHALL BE REPAIRED BY THE PROPERTY OWNER TO MEET THESE REGULATIONS

AND ANY APPLICABLE FEDERAL, STATE AND LOCAL SAFETY STANDARDS OR BE PHYSICALLY REMOVED WITHIN 90 DAYS.

- w. THE APPLICANT SHALL DEMONSTRATE THAT A SMALL ENERGY WIND SYSTEM SHALL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE'S SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.
- x. THE FOLLOWING SUBMITTALS ARE REQUIRED FOR APPROVAL:
 - i. SITE PLAN, AT A STANDARD SCALE TO ADEQUATELY SHOW:
 - 1. PROPERTY LINES AND DIMENSIONS OF SUBJECT PROPERTY
 - 2. PROPERTY LINES AND OWNER INFORMATION FOR ALL ABUTTING PROPERTIES
 - 3. LOCATIONS OF ALL EXISTING BUILDINGS, STRUCTURES, UNDERGROUND AND OVERHEAD UTILITIES ON THE SUBJECT PROPERTY
 - 4. LOCATIONS OF ALL EXISTING BUILDINGS ON ABUTTING PROPERTIES
 - 5. LOCATION OF THE PROPOSED SMALL WIND ENERGY SYSTEM WITH DISTANCES TO SHOW REQUIRED SETBACKS
 - 6. CERTIFICATION BY A LICENSED PROFESSIONAL ENGINEER OR PROPERTY OWNER THAT THE INFORMATION SHOWN ON THE SITE PLAN IS ACCURATE
 - 7. A SHADOW FLICKER STUDY DOCUMENTING COMPLIANCE WITH SHADOW FLICKER IMPACT DEFINITION PER ARTICLE VII, SECTION 7.63.S
 - ii. THE SMALL WIND ENERGY SYSTEMS MANUFACTURER'S SPECIFICATION SHEET, INCLUDING PHOTOGRAPH, SOUND ANALYSIS AND MOUNTING RECOMMENDATIONS.
 - iii. ENGINEERING DRAWINGS SHOWING THE SMALL WIND ENERGY SYSTEM STRUCTURE, INCLUDING THE TOWER, TURBINE, BASE, AND FOOTINGS, AND AN ENGINEERING ANALYSIS SHOWING COMPLIANCE WITH THE INTERNATIONAL BUILDING CODE AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER. THIS ANALYSIS MAY BE SUPPLIED BY THE MANUFACTURER.

- iv. SITING ELEVATIONS, EXISTING PHOTOGRAPHY, AND A PHOTO SIMULATION FROM ALL DIRECTIONS.
 - v. ANY ADDITIONAL INFORMATION AS MAY BE REQUIRED BY THE BOARD OF APPEALS AS APPROPRIATE, TO DEMONSTRATE COMPLIANCE WITH THE REGULATIONS.
 - vi. A NARRATIVE THAT EXPLAINS HOW THE SITE WILL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE'S SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.
64. WIND ENERGY SYSTEMS, SMALL IN V, IV, IVCA PROVIDED:
- a. IF AN ALTERNATIVE ENERGY SOURCE CAN PRODUCE EQUAL ENERGY, THEN THAT SHOULD BE USED RATHER THAN A TALL TOWER WHICH IMPACTS THE LANDSCAPE.
 - b. IF CO-LOCATION WITH A PERSONAL WIRELESS FACILITY IS PROPOSED, THEN A NEED FOR THE PERSONAL WIRELESS FACILITY TOWER MUST BE DOCUMENTED AND ALL APPROPRIATE STUDIES SUBMITTED. IN ADDITION, THE PROPOSED TOWER MUST COMPLY WITH ALL STANDARDS FOR BOTH WIND TURBINES AND PERSONAL WIRELESS FACILITIES.
 - c. THE APPLICANT SHALL PROVIDE A REPORT DOCUMENTING THAT THE WIND ENERGY SYSTEM DOES NOT SIGNIFICANTLY IMPACT MIGRATORY BIRD PATHWAYS.
 - d. THE WIND ENERGY SYSTEM SHALL NOT BE LOCATED WITHIN THE AIR PATH OF A PRIVATE OR PUBLIC AIR STRIP.
 - e. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 120 FEET.
 - f. A SMALL ENERGY SYSTEM SHALL NOT HAVE MORE THAN ONE WIND TURBINE PER PARCEL.
 - g. MONOPOLES OR LATTICE TOWERS SHALL BE THE PREFERRED TOWER STRUCTURE IN THE COUNTY.
 - h. GUY WIRES ARE STRICTLY PROHIBITED.
 - i. SMALL WIND ENERGY SYSTEMS MAY NOT BE LOCATED WITHIN THE BUFFER OR WITHIN A STREAM PROTECTION CORRIDOR.

- j. SMALL ENERGY WIND SYSTEMS SHALL NOT BE ARTIFICIALLY LIT UNLESS SUCH LIGHTING IS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION.
- k. SMALL ENERGY WIND SYSTEMS SHALL BE GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR OR FINISH THAT CONFORMS TO THE ENVIRONMENT AND ARCHITECTURE OF THE COMMUNITY, UNLESS FEDERAL AVIATION ADMINISTRATION REGULATIONS REQUIRE OTHERWISE.
- l. ALL SIGNS, INCLUDING FLAGS, STREAMERS, AND DECORATIVE ITEMS, BOTH TEMPORARY AND PERMANENT, ARE PROHIBITED ON A SMALL ENERGY WIND SYSTEM EXCEPT THE MANUFACTURER OR INSTALLER'S IDENTIFICATION OR APPROPRIATE WARNING SIGNS OR PLACARDS.
- m. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 1.5 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE.
- n. EITHER TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET OR ARE FENCED.
- o. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE.
- p. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT.
- q. THE BLADE TIP, AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET.
- r. ANY SMALL ENERGY WIND SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.
- s. SMALL WIND ENERGY SYSTEMS SHALL BE SITED IN A MANNER THAT DOES NOT RESULT IN SIGNIFICANT SHADOW FLICKER.
- t. A SMALL WIND ENERGY SYSTEM, INCLUDING WIND TURBINE AND TOWER, SHALL COMPLY WITH ALL APPLICABLE CONSTRUCTION AND ELECTRICAL CODES.
- u. AUDIBLE SOUND DUE TO WIND TURBINE OPERATIONS SHALL NOT EXCEED 55 DB (A) EXCEPT DURING SHORT-TERM EVENTS SUCH AS UTILITY OUTAGES AND/OR SEVERE WINDSTORMS. THE SOUND LEVEL SHALL BE MEASURED AT GROUND LEVEL AT THE PROPERTY LINE.
- v. ANY SMALL WIND ENERGY SYSTEM FOUND TO BE UNSAFE SHALL BE REPAIRED BY THE PROPERTY OWNER TO MEET THESE REGULATIONS

AND ANY APPLICABLE FEDERAL, STATE AND LOCAL SAFETY STANDARDS OR BE PHYSICALLY REMOVED WITHIN 90 DAYS.

w. THE APPLICANT SHALL DEMONSTRATE THAT A SMALL ENERGY WIND SYSTEM SHALL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE'S SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.

x. THE FOLLOWING SUBMITTALS ARE REQUIRED FOR APPROVAL:

i. SITE PLAN, AT A STANDARD SCALE TO ADEQUATELY SHOW:

1. PROPERTY LINES AND DIMENSIONS OF SUBJECT PROPERTY
2. PROPERTY LINES AND OWNER INFORMATION FOR ALL ABUTTING PROPERTIES
3. LOCATIONS OF ALL EXISTING BUILDINGS, STRUCTURES, UNDERGROUND AND OVERHEAD UTILITIES ON THE SUBJECT PROPERTY
4. LOCATIONS OF ALL EXISTING BUILDINGS ON ABUTTING PROPERTIES
5. LOCATION OF THE PROPOSED SMALL WIND ENERGY SYSTEM WITH DISTANCES TO SHOW REQUIRED SETBACKS
6. CERTIFICATION BY A LICENSED PROFESSIONAL ENGINEER OR PROPERTY OWNER THAT THE INFORMATION SHOWN ON THE SITE PLAN IS ACCURATE
7. A SHADOW FLICKER STUDY DOCUMENTING COMPLIANCE WITH SHADOW FLICKER IMPACT DEFINITION PER ARTICLE VII, SECTION 7.63.S

ii. THE SMALL WIND ENERGY SYSTEMS MANUFACTURER'S SPECIFICATION SHEET, INCLUDING PHOTOGRAPH, SOUND ANALYSIS AND MOUNTING RECOMMENDATIONS.

iii. ENGINEERING DRAWINGS SHOWING THE SMALL WIND ENERGY SYSTEM STRUCTURE, INCLUDING THE TOWER, TURBINE, BASE, AND FOOTINGS, AND AN ENGINEERING ANALYSIS SHOWING COMPLIANCE WITH THE INTERNATIONAL BUILDING CODE AND CERTIFIED BY A LICENSED

PROFESSIONAL ENGINEER. THIS ANALYSIS MAY BE SUPPLIED BY THE MANUFACTURER.

- iv. SITING ELEVATIONS, EXISTING PHOTOGRAPHY, AND A PHOTO SIMULATION FROM ALL DIRECTIONS.
- v. ANY ADDITIONAL INFORMATION AS MAY BE REQUIRED BY THE BOARD OF APPEALS AS APPROPRIATE, TO DEMONSTRATE COMPLIANCE WITH THE REGULATIONS.
- vi. A NARRATIVE THAT EXPLAINS HOW THE SITE WILL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE'S SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.

65. WIND ENERGY SYSTEMS, SMALL WITH A HEIGHT THAT EXCEEDS 80 FEET IN CC, C, CCA, EC, I, ICA-LDA, AND ICA PROVIDED:
- a. IF AN ALTERNATIVE ENERGY SOURCE CAN PRODUCE EQUAL ENERGY, THEN THAT SHOULD BE USED RATHER THAN A TALL TOWER WHICH IMPACTS THE LANDSCAPE.
 - b. IF CO-LOCATION WITH A PERSONAL WIRELESS FACILITY IS PROPOSED, THEN A NEED FOR THE PERSONAL WIRELESS FACILITY TOWER MUST BE DOCUMENTED AND ALL APPROPRIATE STUDIES SUBMITTED. IN ADDITION, THE PROPOSED TOWER MUST COMPLY WITH ALL STANDARDS FOR BOTH WIND TURBINES AND PERSONAL WIRELESS FACILITIES.
 - c. THE APPLICANT SHALL PROVIDE A REPORT DOCUMENTING THAT THE WIND ENERGY SYSTEM DOES NOT SIGNIFICANTLY IMPACT MIGRATORY BIRD PATHWAYS.
 - d. THE WIND ENERGY SYSTEM SHALL NOT BE LOCATED WITHIN THE AIR PATH OF A PRIVATE OR PUBLIC AIR STRIP.
 - e. THE HEIGHT OF THE STRUCTURE TO THE TIP OF THE BLADE AT ITS HIGHEST POINT DOES NOT EXCEED 120 FEET.
 - f. A SMALL ENERGY SYSTEM SHALL NOT HAVE MORE THAN ONE WIND TURBINE PER PARCEL.

- g. MONOPOLES OR LATTICE TOWERS SHALL BE THE PREFERRED TOWER STRUCTURE IN THE COUNTY.
- h. GUY WIRES ARE STRICTLY PROHIBITED.
- i. SMALL WIND ENERGY SYSTEMS MAY NOT BE LOCATED WITHIN THE BUFFER OR WITHIN A STREAM PROTECTION CORRIDOR.
- j. SMALL ENERGY WIND SYSTEMS SHALL NOT BE ARTIFICIALLY LIT UNLESS SUCH LIGHTING IS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION.
- k. SMALL ENERGY WIND SYSTEMS SHALL BE GALVANIZED STEEL, BRUSHED ALUMINUM FINISH, OR A NON-GARISH COLOR OR FINISH THAT CONFORMS TO THE ENVIRONMENT AND ARCHITECTURE OF THE COMMUNITY, UNLESS FEDERAL AVIATION ADMINISTRATION REGULATIONS REQUIRE OTHERWISE.
- l. ALL SIGNS, INCLUDING FLAGS, STREAMERS, AND DECORATIVE ITEMS, BOTH TEMPORARY AND PERMANENT, ARE PROHIBITED ON A SMALL ENERGY WIND SYSTEM EXCEPT THE MANUFACTURER OR INSTALLER'S IDENTIFICATION OR APPROPRIATE WARNING SIGNS OR PLACARDS.
- m. ANY FREE STANDING STRUCTURE IS LOCATED A MINIMUM OF 1.5 TIMES ITS TOTAL HEIGHT FROM A PROPERTY LINE.
- n. EITHER TOWERS ARE NOT READILY CLIMBABLE FROM THE GROUND UP TO 12 FEET OR ARE FENCED.
- o. ALL ACCESS DOORS TO TOWERS AND ELECTRICAL EQUIPMENT SHALL BE LOCKABLE.
- p. APPROPRIATE WARNING SIGNAGE IS PLACED ON THE TOWER AND ELECTRICAL EQUIPMENT.
- q. THE BLADE TIP, AT ITS LOWEST POINT HAS A GROUND CLEARANCE OF AT LEAST 25 FEET.
- r. ANY SMALL ENERGY WIND SYSTEM THAT IS NOT OPERATIONAL FOR A PERIOD OF 12 CONSECUTIVE MONTHS OR MORE SHALL BE REMOVED AT THE LANDOWNER'S EXPENSE.
- s. SMALL WIND ENERGY SYSTEMS SHALL BE SITED IN A MANNER THAT DOES NOT RESULT IN SIGNIFICANT SHADOW FLICKER.
- t. A SMALL WIND ENERGY SYSTEM, INCLUDING WIND TURBINE AND TOWER, SHALL COMPLY WITH ALL APPLICABLE CONSTRUCTION AND ELECTRICAL CODES.
- u. AUDIBLE SOUND DUE TO WIND TURBINE OPERATIONS SHALL NOT EXCEED 55 DB (A) EXCEPT DURING SHORT-TERM EVENTS SUCH AS UTILITY OUTAGES AND/OR SEVERE WINDSTORMS. THE SOUND

LEVEL SHALL BE MEASURED AT GROUND LEVEL AT THE PROPERTY LINE.

- v. ANY SMALL WIND ENERGY SYSTEM FOUND TO BE UNSAFE SHALL BE REPAIRED BY THE PROPERTY OWNER TO MEET THESE REGULATIONS AND ANY APPLICABLE FEDERAL, STATE AND LOCAL SAFETY STANDARDS OR BE PHYSICALLY REMOVED WITHIN 90 DAYS.
- w. THE APPLICANT SHALL DEMONSTRATE THAT A SMALL ENERGY WIND SYSTEM SHALL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE'S SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.
- x. THE FOLLOWING SUBMITTALS ARE REQUIRED FOR APPROVAL:
 - i. SITE PLAN, AT A STANDARD SCALE TO ADEQUATELY SHOW:
 - 1. PROPERTY LINES AND DIMENSIONS OF SUBJECT PROPERTY
 - 2. PROPERTY LINES AND OWNER INFORMATION FOR ALL ABUTTING PROPERTIES
 - 3. LOCATIONS OF ALL EXISTING BUILDINGS, STRUCTURES, UNDERGROUND AND OVERHEAD UTILITIES ON THE SUBJECT PROPERTY
 - 4. LOCATIONS OF ALL EXISTING BUILDINGS ON ABUTTING PROPERTIES
 - 5. LOCATION OF THE PROPOSED SMALL WIND ENERGY SYSTEM WITH DISTANCES TO SHOW REQUIRED SETBACKS
 - 6. CERTIFICATION BY A LICENSED PROFESSIONAL ENGINEER OR PROPERTY OWNER THAT THE INFORMATION SHOWN ON THE SITE PLAN IS ACCURATE
 - 7. A SHADOW FLICKER STUDY DOCUMENTING COMPLIANCE WITH SHADOW FLICKER IMPACT DEFINITION PER ARTICLE VII, SECTION 7.63.S
 - ii. THE SMALL WIND ENERGY SYSTEMS MANUFACTURER'S SPECIFICATION SHEET, INCLUDING PHOTOGRAPH, SOUND ANALYSIS AND MOUNTING RECOMMENDATIONS.
 - iii. ENGINEERING DRAWINGS SHOWING THE SMALL WIND ENERGY SYSTEM STRUCTURE, INCLUDING THE TOWER, TURBINE, BASE, AND FOOTINGS, AND AN ENGINEERING

ANALYSIS SHOWING COMPLIANCE WITH THE INTERNATIONAL BUILDING CODE AND CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER. THIS ANALYSIS MAY BE SUPPLIED BY THE MANUFACTURER.

- iv. SITING ELEVATIONS, EXISTING PHOTOGRAPHY, AND A PHOTO SIMULATION FROM ALL DIRECTIONS.
- v. ANY ADDITIONAL INFORMATION AS MAY BE REQUIRED BY THE BOARD OF APPEALS AS APPROPRIATE, TO DEMONSTRATE COMPLIANCE WITH THE REGULATIONS.
- vi. A NARRATIVE THAT EXPLAINS HOW THE SITE WILL NOT UNREASONABLY INTERFERE WITH THE VIEW OF, OR FROM, SITES OF SIGNIFICANT PUBLIC INTEREST SUCH AS PUBLIC PARKS, A NATIONAL OR STATE DESIGNATED SCENIC BYWAY, A STRUCTURE LISTED IN THE KENT COUNTY HISTORIC SITE'S SURVEY, AN HISTORIC DISTRICT, OR OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES.

SECTION 35. BE IT ENACTED by the County Commissioners of Kent County, Maryland that new subsections be added to the Kent County Land Use Ordinance, Article XI, Section 2(Definitions) as follows:

185.5 MET TOWER: A TEMPORARY TOWER ERECTED FOR THE PURPOSE OF PERFORMING A WIND STUDY TO DETERMINE THE OPTIMAL LOCATION FOR A WIND ENERGY SYSTEM

289.5 SHADOW FLICKER: THE MOVING SHADOW CREATED BY THE SUN SHINING ON ROTATING BLADES OF THE WIND TURBINE.

301.5 SOLAR ENERGY SYSTEM, SMALL: ANY DEVICE OR COMBINATION OF DEVICES OR ELEMENTS WHICH RELY UPON DIRECT SUNLIGHT AS AN ENERGY SOURCE, INCLUDING BUT NOT LIMITED TO ANY SUBSTANCE OR DEVICE WHICH COLLECTS SUNLIGHT FOR GENERATING ENERGY FOR USE ONSITE. HOWEVER, THE ENERGY OUT PUT MAY BE DELIVERED TO A POWER GRID TO OFFSET THE COST OF ENERGY ON SITE AS WELL AS AGGREGATE METERING AS DEFINED BY THE STATE OF MARYLAND.

355.5 WIND ENERGY SYSTEM, SMALL: A WIND TURBINE MOUNTED ON A FREESTANDING WIND TOWER OR BUILDING FOR THE PURPOSE OF GENERATING ENERGY FOR USE ON SITE AND NOT FOR SALE AND INCLUDES

HOWEVER, THE ENERGY OUTPUT MAY BE DELIVERED TO A POWER GRID TO OFFSET THE COST OF ENERGY ON SITE.

SECTION 36. BE IT FURTHER ENACTED that this Act shall take effect on the 21st day of October, 2011.

Read Third Time September 6, 2011

Passed this September 6, 2011

Failure of Passage _____

By Order of:

Sondra M. Blackiston
Sondra M. Blackiston, Clerk

(SEAL)

THE COUNTY COMMISSIONERS OF KENT COUNTY

Ronald H. Fithian
Ronald H. Fithian, President

William W. Pickrum
William W. Pickrum, Member

Alexander P. Rasin
Alexander P. Rasin, Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than two times at weekly intervals within a four week period.

Kent County Renewable Energy Task Force
29 April 2016
Meeting Summary

The Kent County 2015/16 Renewable Energy Task Force (RETF) met on Friday, 29 April 2016 at 9:00 am in the Second Floor Conference room in the R. Clayton Mitchell, Jr. Government Center in Chestertown, MD for its final meeting. The following members attended: Walter Bowie, Briggs Cunningham, Janet Christensen-Lewis, William Cooper, David Hill, Bob Ingersol, Kim Kohl, Sam Shoge, Eddie Taylor, and Terry Willis. RETF staff in attendance included Stephanie Jones, Environmental Planner; Amy G. Moredock, Planning Director; and Katrina Tucker, Community Planner.

Ms. Moredock requested comments and approval of the 15 April meeting summary. The summary was accepted as presented.

Discussion of Utility Scale Wind Energy Systems

Members discussed the existing wind energy system provisions and the wind energy studies provided via email from member Kim Kohl. Members thoroughly debated the impacts of utility scale wind energy systems on the agricultural industry and considered the intent of the Comprehensive Plan goals and strategies which support the promotion and protection of agriculture as a continued viable industry in the County and the intent of the Agricultural Zoning District.

Members voted unanimously that utility scale wind energy systems are not consistent with the intent of the Ordinance or the Comprehensive Plan.

However, the members were inclined to propose amendments to small scale wind energy systems provisions to make allowances for community scale projects (to be consistent with the community solar provisions discussed at the previous meeting). This entails adding net metering language to the small scale wind definition (to be consistent with the small scale solar energy system definition) and permit one tower per parcel (to include farms and not to exceed a height of 199 feet). Specifically, the following amendments to the Small Wind Energy System special exception provisions for AZD, RCD, RC, RR, CAR, and CR were approved accordingly:

- Article VII, Section 7.63 – Small Wind Energy Systems with a height that exceeds 80 feet ~~or on parcels less than 20 acres~~ in AZD, RCD, RC, RR, CAR, and CR. This motion passed by a vote of 6:4.
- No change to Article VII, Section 7.63.a – If an alternative energy source can produce equal energy, then that should be used rather than a tall tower which impacts the landscape. This motion passed by a vote of 9:1.
- Article VII, Section 7.63.e – The height of the structure to the tip of the blade at its highest point does not exceed ~~120~~ **199** feet. This motion passed by a vote of 6:4.

Next steps

The full body of proposed zoning text amendments drafted by the RETF will be placed on an upcoming Planning Commission agenda in order for the Commission to review and make recommendation to the County Commissioners.

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

November 17, 2020
Legislative Session Day

Legislative Session Day
November 17, 2020

CODE HOME RULE
BILL NO. 7-2020

INTRODUCED BY: P. Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Article VI, *Special Provisions*, by creating a new Section 11, *Countywide Standards for Utility-Scale Solar Energy Systems*, in order to address landscape buffers, installation and maintenance, and setbacks to support required landscape buffers for utility-scale solar energy systems that may be located anywhere in the County ~~within said gateways as well as in other areas in the County.~~

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND


P. Thomas Mason, President

INTRODUCED, read first time, November 17, 2020, ordered posted and public hearing scheduled December 15, 2020, at 6:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

RECEIVED
ERK. CIRCUIT COURT
021 FEB 23 A 8 04
KENT COUNTY

By order of:


Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on December 15, 2020. Reported favorably [with] amendments; read a second time and ordered to be considered on February 16, 2021, a legislative session day.

BILL NO. 7-2020, as amended by interlineation, indicated by **bold double underline** and ~~double strike through~~ **CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW** (in the original CHR) ~~Strike through~~ indicates matter deleted from existing law (in the original CHR)

**A BILL ENTITLED CHR 7-2020 LANDSCAPE AND BUFFER REQUIREMENTS FOR
UTILITY-SCALE SOLAR ENERGY SYSTEMS**

**SECTION 1. NOW, THEREFORE, BE IT ENACTED BY THE COUNTY
COMMISSIONERS OF KENT COUNTY, MARYLAND THAT THE KENT COUNTY
LAND USE ORDINANCE IS HEREBY AMENDED AS FOLLOWS:**

ARTICLE VI.

SPECIAL PROVISIONS

SECTION 1. PARKING AND LOADING REQUIREMENTS

...

**SECTION 11. COUNTYWIDE STANDARDS FOR UTILITY-SCALE SOLAR ENERGY
SYSTEMS**

- A. SETBACKS TO ACCOMMODATE REQUIRED LANDSCAPE BUFFER**
- 1. ~~75~~ 200 FEET FROM ANY LOT LINE.**
 - 2. ~~400~~ 200 FEET FROM ANY ROAD/AND OR RIGHT-OF WAY**
 - 3. 200 FEET FROM ANY ROAD/RIGHT-OF-WAY FROM ANY ROAD/RIGHT-OF-WAY WITHIN ½ MILE OF A TOWN OR VILLAGE BOUNDARY THAT IS THE GATEWAY INTO A TOWN OR VILLAGE**
 - 4. ~~150~~ 200 FEET FROM ANY RESIDENTIAL USE OR ZONING DISTRICT, INCLUDING RESIDENTIAL PROPERTIES SEPARATED BY ROADWAYS.**
 - 5. SETBACKS MAY BE REDUCED TO 100 FEET ~~THE MINIMUM REQUIRED~~ FOR NON-RESIDENTIAL DEVELOPMENT ~~(75)~~ WITH WRITTEN CONSENT FROM THE PROPERTY OWNERS WHOSE PROPERTY IS ADJACENT TO THE AREA IN WHICH THE SETBACK REDUCTION IS SOUGHT. THE PLANNING COMMISSION SHALL BE THE REVIEW AGENCY TO DETERMINE THE APPLICATION OF THIS PROVISION.**
 - 6. SETBACKS SHALL BE MEASURED FROM THE OUTERMOST EDGE OF THE NEAREST SOLAR PANEL STRUCTURE WITHIN THE SOLAR ARRAY INCLUDING SUBSTATIONS.**

B. INSTALLATION AND MAINTENANCE STANDARDS

SOLAR ARRAYS SHALL BE CONSTRUCTED AND MAINTAINED ACCORDING TO THE FOLLOWING:

- 1. IF SOLVENTS ARE REQUIRED FOR CLEANING OF THE SOLAR MODULES, THEY MUST BE BIODEGRADABLE. ANY UNUSED SOLVENTS MUST BE REMOVED FROM THE SUBJECT PARCEL.**
- 2. ALL BROKEN OR WASTE SOLAR MODULES SHALL BE REMOVED FROM THE ~~SITE~~ SUBJECT PARCEL WITHIN ~~60~~ 30 DAYS OF BEING TAKEN OUT OF SERVICE, INCLUDING ANY LEACHING PANELS, AND THE SUBJECT PARCEL SHALL BE MAINTAINED IN GOOD ORDER.**
- 3. ALL WIRING NOT ON THE SOLAR ARRAYS SHALL BE UNDERGROUND EXCEPT WHEN NECESSARY TO CONNECT TO THE PUBLIC UTILITY.**
- 4. TRANSMISSION WIRES TO CONNECT THE PROJECT TO THE UTILITY INFRASTRUCTURE SHALL NOT CROSS A ROADWAY OVERHEAD.**
- 5. ANY REQUIRED UTILITY RIGHT OF WAY SHALL BE SECURED THROUGH AN EASEMENT, LEASE, SERVICE AGREEMENT OR OTHER LEGALLY BINDING DOCUMENT.**
- 6. THE SOLAR ARRAY SHALL BE ENCLOSED BY A FENCE OR OTHER APPROPRIATE BARRIER AT THE INTERIOR EDGE OF THE REQUIRED LANDSCAPE BUFFER OR IMMEDIATELY ADJACENT TO THE SOLAR ARRAY. THE FENCE OR BARRIER SHALL:**
 - a. SECURE THE FACILITY AT ALL TIMES TO PREVENT UNAUTHORIZED PERSONS OR VEHICLES FROM GAINING ACCESS.**
 - b. ALL ACCESS GATES WILL PROVIDE A SIGN THAT IDENTIFIES THE RESPONSIBLE PARTIES OR OWNERS WITH CURRENT CONTACT INFORMATION.**
- 7. NOISE GENERATED BY THE FACILITY SHALL BE LIMITED BY THE PROJECT DESIGN TO 45 DBA AS MEASURED AT THE PROPERTY LINE, TO BE INDICATED ON THE SITE PLAN BY THE ENGINEER, EXCEPT WHEN A BACK-UP GENERATOR IS NEEDED FOR MAINTENANCE. CONSTRUCTION ON THE SITE IS EXEMPT FROM THIS STANDARD.**
- 8. SOLAR ARRAYS, INCLUDING THE ELECTRICAL AND MECHANICAL COMPONENTS, SHALL CONFORM TO RELEVANT AND APPLICABLE LOCAL, STATE AND NATIONAL CODES.**
- 9. TO PROTECT ADJACENT PROPERTIES, AND NOT INTERFERE WITH ROADWAYS OR CREATE A SAFETY HAZARD, EVIDENCE SHALL BE**

PROVIDED THAT THE SOLAR PANELS ARE DESIGNED TO AVOID GLARE AND/OR REFLECTION WITH ANTI-REFLECTIVE COATING OR NON-GLARE TECHNOLOGY AND IF NECESSARY, HAVE BEEN EVALUATED WITH A SOLAR GLARE HAZARD AND ANALYSIS TOOL.

10. NON-ARRAY USES SUCH AS POWER STORAGE ARE NOT PERMITTED.

C. LANDSCAPE BUFFER FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS

1. ANY UTILITY SCALE SOLAR FACILITY SHALL COMPLY WITH THE REQUIREMENTS OF THE FOREST CONSERVATION ACT. REFORESTATION PLANTING MAY BE INCORPORATED AS LANDSCAPING.
2. THE GROSS USABLE AREA FOR PANELS WILL EXCLUDE WETLAND AREAS THAT ARE REGULATED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT OR THE U.S. DEPARTMENT OF THE INTERIOR. IMPACTS ASSOCIATED WITH ACCESS OR INTERIOR ROADS AND UTILITY CROSSINGS SHALL PROVIDE THE NECESSARY AUTHORIZATION FOR ANY DISTURBANCES.
3. EXISTING TOPSOIL SHALL NOT BE REMOVED FROM THE SITE.
4. A VEGETATED BUFFER THAT IS A MINIMUM OF 60 FEET WIDE AROUND THE PERIMETER OF THE SITE AREA FRONTING ON ROAD OR RIGHTS OF WAY THAT ARE CONSIDERED GATEWAYS TO TOWNS OR VILLAGES AND A MINIMUM OF 50 FEET FOR ALL OTHER APPLICATIONS. THIS BUFFER MAY BE LOCATED WITHIN THE SETBACK AND SHALL EXTEND AROUND THE ENTIRE PROJECT WITH THE EXCEPTION OF ANY BOUNDARIES CONTIGUOUS TO PRESERVED, FORESTED LANDS THAT ARE RECORDED ON A PLAT.
5. HEALTHY EXISTING VEGETATION WITHIN THE DESIGNATED BUFFER AREA MAY BE USED TO SATISFY THE SPECIFIC BUFFER STANDARDS.
6. NON-NATIVE PLANT MATERIAL SHALL NOT TOTAL MORE THAN 10% OF ALL PLANTINGS
7. WHERE A PHASED CONSTRUCTION PLAN IS PROPOSED, THE LANDSCAPE PLAN SHALL IDENTIFY THE PHASING OF THE PLANTINGS APPLICABLE TO EACH CONSTRUCTION PHASE.
8. NOT MORE THAN 25% OF ANY SINGLE PLANT SPECIES SHOULD BE INCLUDED IN THE BUFFER TO PROMOTE THE GROWTH OF A NATURAL LANDSCAPE AND AVOID MONOTONY AND UNIFORMITY OF THE BUFFER. THE VEGETATION SHALL BE THICKLY PLANTED AND OF SUCH SPECIES THAT IT WILL PROVIDE AN OPAQUE VISUAL

BARRIER THAT OBSCURES THE UTILITY SCALE SOLAR ARRAY FROM SIGHT ONCE THE VEGETATION REACHES MATURITY OR WITHIN FIVE YEARS, WHICHEVER COMES FIRST. A MIX OF EVERGREEN AND DECIDUOUS TREES, SHRUBS AND BENEFICIAL HABITAT SHALL BE INCLUDED:

- a. **A MINIMUM OF TWO STAGGERED ROWS OF EVERGREEN TREES THAT AT INSTALLATION SHALL BE AT LEAST 6 FEET IN HEIGHT, EACH PLANTED NO MORE THAN 10 FEET APART. EVERGREEN TREE SPECIES SHALL BE A VARIED MIXTURE OF COMPATIBLE TYPES AND ACHIEVE A HEIGHT OF EIGHT FEET IN A MINIMUM OF 2 YEARS.**
 - b. **IN ADDITION TO THE EVERGREEN TREES, NATIVE DECIDUOUS OR SHADE TREES WITH A MINIMUM SIZE AT INSTALLATION OF 2-INCH CALIPER SHALL BE INTERSPERSED TO ENHANCE THE EVERGREEN SCREENING ALONG WITH UNDERSTORY TREES WITH A MINIMUM SIZE OF INSTALLATION OF 1-INCH CALIPER OR 6 FEET IN OVERALL HEIGHT OR GREATER IF REQUIRED BY THE PLANNING COMMISSION TO ADDRESS GATEWAY AREAS.**
 - c. **SHRUBS WITH A MINIMUM SIZE AT INSTALLATION OF 24 INCHES IN HEIGHT OR 30 INCHES IN SPREAD.**
 - d. **THE BUFFER SHALL INCLUDE A FLOWERING GROUND COVER FOR POLLINATORS, WARM SEASON GRASSES AND OTHER BENEFICIAL HABITAT. THE GROUND COVER SEED MIXTURE SHALL INCLUDE A MINIMUM OF 10 PLANT SPECIES WITH A MINIMUM OF 2 FLOWERING SEASONS. LAWNS OUTSIDE THE REQUIRED BUFFER ARE DISCOURAGED; PLANTINGS FOR POLLINATORS ARE ENCOURAGED IN ALL PLANTED AREAS.**
 - e. **THE HEIGHT OF PROPOSED PLANTING MAY REQUIRE ALTERNATIVES BASED UPON THE SITE ELEVATION AND VISIBILITY FROM ADJACENT PROPERTIES AND ROADS AND/OR RIGHTS OF WAYS. IF NECESSARY, AN ELEVATION OR PERSPECTIVE ILLUSTRATION EXHIBIT SHALL BE PROVIDED WITH VIEWPOINTS FROM RELEVANT LOCATIONS AROUND THE SITE FOR THE PLANNING COMMISSION TO CONSIDER.**
- D. A LANDSCAPE BERM SHALL BE PROVIDED AT A MINIMUM OF THREE (3) FEET HIGH TO ASSIST IN SCREENING. THE DESIGN OF THE BERM SHALL BE SUCH THAT THE NATURAL DRAINAGE PATTERNS OF THE SITE WILL NOT BE ALTERED. THE BERM REQUIREMENT MAY BE WAIVED IN PART OR TOTAL SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **A MINIMUM OF TWO STAGGERED ROWS OF EVERGREEN TREES THAT AT INSTALLATION ARE AT LEAST 8 FEET IN HEIGHT AND PLANTED NO MORE THAN 10 FEET APART**
 2. **INTERSPERSED SHADE TREES HAVE A MINIMUM SIZE AT INSTALLATION OF 2.5-INCH CALIPER**
 3. **UNDERSTORY STORY TREES WITH A MINIMUM SIZE AT INSTALLATION OF 1.5-INCH CALIPER OR 6 FEET IN OVERALL HEIGHT**
 4. **SHRUBS WITH A MINIMUM SIZE AT INSTALLATION OF 30 INCHES IN HEIGHT.**
 5. **THE LANDSCAPING PLAN IS DEEMED TO SCREEN ELEVATIONS OF THE SITE ADEQUATELY WITHIN 2 YEARS.**
- E. **IRRIGATION SHALL BE PROVIDED TO ASSIST IN MAINTAINING PLANT MATERIALS IN A HEALTHY CONDITION FOR ALL NEWLY CREATED LANDSCAPE BUFFER AREAS. PLANTS SHALL BE WATERED IN A MANNER ADEQUATE TO ENSURE ESTABLISHMENT AND SURVIVAL. THE LANDSCAPE PLAN SHALL INCLUDE A WATERING SCHEDULE APPROPRIATE FOR THE PROPOSED PLANTINGS, WHICH MAY INCLUDE SERVICE BY ON-SITE IRRIGATION OR WATER TRUCK, UNTIL THE PLANT MATERIAL IS SUFFICIENTLY ESTABLISHED TO SURVIVE ON NATURAL SOIL MOISTURE. AN IRRIGATION SYSTEM IS SUBJECT TO THE FOLLOWING:**
1. **THE IRRIGATION SYSTEM SHALL BE DESIGNED TO PREVENT RUNOFF, LOW HEAD DRAINAGE, OVERSPRAY, OR OTHER SIMILAR CONDITIONS WHERE IRRIGATION WATER FLOWS ONTO NONTARGETED AREAS SUCH AS ADJACENT PROPERTIES, ROADWAYS, OR STRUCTURES.**
 2. **ALL AUTOMATIC IRRIGATION SYSTEMS SHALL BE DESIGNED TO MINIMIZE WATER USAGE AND SHALL BE MANUALLY SHUT OFF DURING WATER EMERGENCIES OR WATER RATIONING PERIODS.**
 3. **AN ALTERNATIVE FORM OF IRRIGATION FOR A PARTICULAR SITE MAY BE APPROVED THROUGH THE APPLICABLE REVIEW PROCESS UPON DETERMINING THAT UNDERGROUND IRRIGATION IS NOT NECESSARY OR AVAILABLE FOR THE TYPE OF PLANT MATERIAL BEING PROPOSED.**
- F. **A MAINTENANCE AGREEMENT FOR THE LANDSCAPE PLAN SHALL BE PROVIDED WITH A SURETY OR OTHER FINANCIAL ASSURANCE TO**

COVER REPLACEMENT OF THE PLANTINGS AND IRRIGATION SYSTEMS. ALL PLANTINGS SHALL BE MAINTAINED IN A LIVE, HEALTHY CONDITION FOR THE DURATION OF THE SOLAR ARRAY LIFE AND SHALL BE REPLACED BY THE SOLAR ARRAY OPERATOR AS NECESSARY WITH APPROPRIATELY SIZED PLANT MATERIAL AS NECESSARY TO MAINTAIN ALL REQUIRED BUFFERING STANDARDS.

- G. THE SURETY MAY BE PROVIDED ON A PHASED BASIS PER THE LANDSCAPE PHASING PLAN AND SHALL BE HELD BY THE COUNTY FOR A PERIOD OF THREE-YEARS FOLLOWING PLANTING, AFTER WHICH THE COUNTY, UPON SATISFACTORY INSPECTION OF THE LANDSCAPE BUFFER MAY RELEASE 50% OF THE SURETY, AND THE REMAINING 50% MAY BE RELEASED AFTER AN ADDITIONAL TWO YEARS. THE COUNTY THEN RESERVES THE RIGHT TO INSPECT AND REQUIRE REPLACEMENT FOR THE DURATION OF THE SOLAR ARRAY.**
- H. ENTRANCES TO THE PROJECT SHOULD BE DESIGNED TO ENSURE THAT NEIGHBORING PROPERTIES, PUBLIC RIGHTS-OF WAYS AND ROADS ARE NOT EXPOSED TO AN UNSCREENED VIEW THROUGH THE ENTRANCEWAY. THE USE OF A WIRE MESH OR CHAIN-LINK GATE OR FENCE WITH VINYL INTERWOVEN STRIPS IS NOT ACCEPTABLE.**
- I. THE PROJECT 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.**
- J. THE PROJECT SHALL COMPLY WITH ALL OTHER APPLICABLE REGULATIONS, AS CONTAINED IN THE PUBLIC LAWS OF KENT COUNTY.**
- K. THE PROJECT SHALL COMPLY WITH THE BOND-RELATED REQUIREMENTS BELOW:**
 - 1. A BOND, SURETY LETTER, OR OTHER FINANCIAL INSTRUMENT FOR REMOVAL OF ALL SOLAR-RELATED STRUCTURES AND NON-VEGETATIVE IMPROVEMENTS ON THE SITE AND FOR THE RESTORATION OF THE SITE TO ITS PRE-PROJECT CONDITION**

SHALL BE SUBMITTED, TO BE BASED ON BONA FIDE WRITTEN ESTIMATES PREPARED BY THIRD-PARTY CONSULTANTS;

2. THE COST ESTIMATE SHALL ADDRESS PROVISIONS FOR THE SAFE REMOVAL AND PROPER DISPOSAL OF ALL COMPONENTS OF THE PROJECT, INCLUDING ANY COMPONENTS CONTAINING HAZARDOUS OR TOXIC MATERIALS INCLUDING LEACHATES;
3. AN ESTIMATE FOR REVIEW BY COUNTY SHALL BE SUBMITTED;
4. BOND SHALL BE MAINTAINED FOR THE LIFE OF THE PROJECT;
5. BONDING MAY BE IN COORDINATION WITH OTHER REQUIRED BONDING BY THE STATE OF MARYLAND, PSC, PULJ, PPRP, ETC.;
6. IN THE EVENT THAT NO OTHER BONDING IS REQUIRED, THEN A BOND IN FAVOR OF THE COUNTY SHALL BE REQUIRED;
7. SAID BONDING SHALL INCLUDE AN ESCALATOR PROVISION BASED ON CHANGES TO THE COST OF RESTORATION, WHICH SHALL BE EVALUATED AND UPDATED EVERY FIVE YEARS;
8. SAID BOND SHALL BE FOR 110% OF THE ABOVE ESTIMATE(S) AND/OR UPDATED ESTIMATE(S) FROM FIVE-YEAR REVIEWS;
9. SAID BOND SHALL BE REDEEMABLE BY THE COUNTY UPON A FINDING THAT THE PROJECT HAS BEEN ABANDONED, WITH OR WITHOUT NOTICE FROM PROJECT OPERATORS, IF PROJECT HAS, IN FACT, BEEN ABANDONED BY ITS OPERATORS; AND
10. THE PROJECT WILL BE CONSIDERED TO BE ABANDONED, IF THERE IS NO ELECTRIC GENERATION PROVIDED TO THE GRID FOR A PERIOD OF TWELVE (12) CONSECUTIVE MONTHS.

SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY THAT IF ANY SECTION, SUBSECTION, SENTENCE, CLAUSE, PHRASE, WORD, PROVISION OR APPLICATION OF THIS CODE HOME RULE BILL SHALL BE FOUND TO BE INVALID, ILLEGAL, UNCONSTITUTIONAL, OR UNENFORCEABLE, THAT SUCH FINDING SHALL NOT AFFECT OR UNDERMINE THE VALIDITY OF ANY OTHER SECTION, SUBSECTION, SENTENCE, CLAUSE, PHRASE, WORD, PROVISION OR APPLICATION IN THIS BILL OR CHAPTER 222.

SECTION 3. BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the 26th day of February, 2021.

Read Third Time February 16, 2021

PASSED this 16th day of February, 2021

Failed of Passage _____

By order of:


Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND


P. Thomas Mason, President


Ronald H. Fithian, Member


Robert N. Jacob, Jr., Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.