Howard County

Internal Memorandum

Subject: ***Renewable Energy Certainty Act (HB1036)***

Changes Effective July 1, 2025

To: *Division of Land Development, Development Engineering Division, Public Service and Zoning Division*

From: *Lynda Eisenberg, AICP, Director* Lynda Eisenberg

Date: *July 11, 2025*

On May 20, 2025, the Renewable Energy Certainty Act (HB1036) was signed into law. The law made changes to the Land Use Article by providing local jurisdictions with a universal criterion for solar generating stations seeking approval under this legislation and requiring local jurisdictions to process solar project plans under 5 MW in accordance with certain standards. This new law does away with the conditional use process for smaller solar projects that are between 1 MW and 2MW as well as 5 MW with larger projects subject to the PSC CPCN process. Solar energy generation station is defined for these purposes as a facility that generates electricity by converting sunlight into electrical energy, i.e. ***Solar Collector Facility***. These smaller projects are allowed by-right provided they comply with the criteria in the legislation outlined in this policy memo. This state law takes effect July 1, 2025.

The purpose of this policy memorandum is to advise all interested parties of the changes adopted by the state and to explain their impact and application in Howard County.

Below is a summary of the key provisions found in HB 1036. A submission process checklist and map of areas affected are attached.

Key Provisions from HB 1036 (link to bill) that pertain to Howard County's Solar Collector Facilities:

- **1 MW< 2MW -** For a solar energy generating station that has the capacity to produce not more than 2MW of electricity as measured by the alternating current rating of the station's inverter, a site development plan submitted to the local jurisdiction shall be included with the plan documentation or other evidence showing that the proposed construction meets the requirements set forth in the bill proposed below.

- **2MW ≤ 5MW -** For a solar energy generating station that has the capacity to produce not more than 5MW of electricity as measured by the alternating current rating of the station's inverter, a

site development plan submitted to the local jurisdiction as a **PERMITTED USE** subject to the review standards in section § 4-205 Administrative adjustments of the Maryland Land Use Article, that a local legislative body may authorize the planning director or another designee to grant an administrative adjustment from the following requirements in a zoning law enacted by the legislative body.

Processing Standards outlined in HB 1036:
Below are the processing standards within the bill for stations that produce between 1MW and 5MW that an applicant will need to meet. These standards do not change Howard County's Environmental Concept Plan (ECP) submission or any Alterative Compliance (AC) that may be needed to satisfy other areas of Howard County's regulations prior to having an approved Site Development Plan.

HB 1036 Processing Standards for 1 MW< 5 MW Shall provide a boundary of 150 feet between the solar energy generating station and the nearest wall of a residential dwelling;

1) Shall provide a boundary of 100 feet between the solar energy generating station and all property lines, property lines that bisect the interior of a project area;

2) a. Shall provide non-barbed wire fencing:
   i. Only on the interior of a landscape buffer or immediately adjacent to a solar energy generating station;
   ii. That is not more than 20 feet in height;
   iii. That is only black or green vinyl wire mesh if owner proposes to use chain link fencing; and
   iv. That is not less than 50 feet away from the edge of any public road right–of–way; and
   b. May use barbed wire fencing around the substations or other critical infrastructure for protection of that infrastructure;

3) Shall provide for a landscaping buffer or vegetative screening as listed below and may not require the use of a berm for a solar energy generating station approved under this section.
   a. The vegetative screening required of this subsection shall:
      i. Be not more than 35 feet wide
      ii. Provided along all property lines
      iii. Be provided along locations of the exterior boundary for the solar energy generation station where existing wooded vegetation of 50 feet of more in width does not exist; or
      iv. An alternative location within the boundary for the solar energy generating station if the owner demonstrated that the alternative location would maximize the visual screening;
   b. Provide for four–season visual screening of the solar energy generating station
   c. Be placed between any fencing and the public view
   d. Include multilayered, staggered rows of overstory and understory trees and shrubs that:
      i. Are a mixture of evergreen and deciduous vegetation;
      ii. Are predominantly native to the region;
      iii. Are more than 4 feet in height at planting;
      iv. Are designed to provide screening or buffering within 5 years of planting;
      v. May not be trimmed to stunt upward or outward growth or to otherwise limit the effectiveness of the visual screen;
      vi. Conform to the plant size specifications established by the American Standard for Nursery Stock and
      vii. Are specified in a landscaping plan prepared by a qualified professional landscape architect;

viii. Be installed as early in the construction process as practicable and before the activation of the proposed solar energy generating station;

e. Preserve to the maximum extent practicable and supplemented with new plantings where necessary, any forest or hedgerow that exists at a location where visual screening or landscape buffering is required; and

f. Shall be maintained with a 90% survival threshold for the life of the solar energy generating station through a maintenance agreement that includes a watering plan.

4) With respect to the site on which a solar energy generating station is proposed for construction, the owner of the solar energy generating station:
a. shall minimize grading to the maximum extent possible;
b. may not remove topsoil from the parcel, but may move or temporarily stockpile topsoil for grading;
c. to maintain soil integrity, shall plant native or noninvasive naturalized vegetation and other appropriate vegetative protections that have a 90% survival threshold for the life of the solar energy generating station;
d. shall limit mowing and other unnecessary landscaping;
e. may not use herbicides except to control invasive species in compliance with the department of agriculture's weed control program; and
f. shall post for the first 5 years of the life of the solar energy generating station a landscaping bond equal to 100% of the total landscaping cost with the county in which the solar energy generating station is located.

i. a local jurisdiction shall release 50% of the landscaping bond if, on inspection, the vegetative protections meet a 90% survival threshold.

ii. following the partial release of a landscaping bond, the remaining landscaping bond shall be held for an additional 2 years and, on further inspection and confirmation that the vegetative protections continue to meet a 90% survival threshold, shall be released.

5) Except as required by law, or for safety or emergency, the solar energy generating station may not emit visible light during dusk to dawn operations.

6) Proposed solar energy generating station and any accessory structures associated with the station must have an average height of not more than 15 feet**.**

7) Must mitigate the visual impact of the solar station on a preservation area: Agricultural Land Preservation Program (ALPP), Maryland Agricultural Land Preservation Foundation (MALPF) and other county preserved land, rural legacy area, county and state parks, historic structures, list sites or sites eligible for the National Register of Historic Places.

8) Shall provide notice of each solar station to emergency response services including a map of the system and location of any solar collection or isolator switch.

9) An owner of a solar energy generating station:
a. shall enter into a decommissioning agreement with the Public Service Commission on a form that the commission provides;
b. shall post a surety bond with the commission for not more than 125% of the estimated future cost of decommissioning the solar energy generating station and its related infrastructure, less any salvage value; and
c. shall execute a securitization bond true–up every 5 years.

If a solar collector facility site meets the criteria above a plan may be submitted to the county in any of the permitted

districts (see attached map and zoning table) without seeking additional zoning or conditional use approval and proceed with an Environmental Concept Plan/Site Development Plan Approval (ECP/SDP) process. This would be the same process for a permitted-by-right solar collector facility and would be expedited in the same policy manner DPZ currently uses to process solar collector facilities with a few minor modifications.

- A project may submit an Alternative Compliance request along with your ECP submittal to process simultaneously. The project will still need to comply with all applicable Storm Water Management and Forest Conservation requirements.
- Under section (10) (I) of the law an owner of a proposed solar energy generating station may provide written documentation of a siting agreement that is entered into with the county in that provides less stringent restrictions than those specified in the requirements listed above.
- If the property is in the County's ALP program, a project will still be required to go Agricultural Board for Advisory Comments per 15.503(h)(2)(i)(d) of the code *(Requests pertaining to an easement brought by the owners of the property subject to the easement. This section is not intended to limit the Department's police powers or the County's property rights under the easement)*.

If a project follows the state law requirements as outlined above projects should move through the Howard County process without delay.