

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 of the Code of Virginia,
2 relating to local regulation of solar facilities; special exceptions.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 of the Code of Virginia are amended and**
5 **reenacted as follows:**

6 **§ 15.2-2241.2. Bonding provisions for decommissioning of solar energy equipment, facilities,**
7 **or devices.**

8 A. As used in this section, unless the context requires a different meaning:

9 "Decommission" means the removal and proper disposal of solar energy equipment, facilities, or
10 devices on real property that has been determined by the locality to be subject to § 15.2-2232 and therefore
11 subject to this section. "Decommission" includes the reasonable restoration of the real property upon
12 which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii)
13 revegetation of the ground cover of the real property disturbed by the installation of such equipment,
14 facilities, or devices.

15 "Solar energy equipment, facilities, or devices" means any personal property designed and used
16 primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

17 B. As part of the local legislative approval process or as a condition of approval of a site plan, a
18 locality shall require an owner, lessee, or developer of real property subject to this section to enter into a
19 written agreement to decommission solar energy equipment, facilities, or devices upon the following terms
20 and conditions: (i) if the party that enters into such written agreement with the locality defaults in the
21 obligation to decommission such equipment, facilities, or devices in the timeframe set out in such
22 agreement, the locality has the right to enter the real property of the record title owner of such property
23 without further consent of such owner and to engage in decommissioning, and (ii) such owner, lessee, or
24 developer provides financial assurance of such performance to the locality in the form of certified funds,
25 cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer

26 licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing
27 decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the
28 projected cost of decommissioning, which may include the net salvage value of such equipment, facilities,
29 or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner,
30 lessee, or developer, and an annual inflation factor.

31 C. The owner, lessee, or operator shall hire a professional engineer licensed in the Commonwealth
32 to update the decommissioning plan cost estimate and corresponding approved financial instrument every
33 five years after the approval of the first decommissioning plan to adjust for inflation, account for
34 advancements in technologies and processes for decommissioning, salvaging, or re-powering of
35 renewable energy facilities, and to make any other necessary changes. The decommissioning plan shall
36 remove the facility's equipment from the landowner's property and return the property to a useful condition
37 similar to the preconstruction condition unless otherwise agreed to by the landowner. After the
38 decommissioning process is complete, the facility shall comply with all stormwater provisions in state
39 law. The project shall provide an up-to-date decommissioning plan to the locality any time there is project
40 ownership outside of the current developer. Notice shall be provided to the local government within 30
41 days of the sale or transfer of the lease or property, and a new financial guarantee shall be provided by the
42 new leaseholder or property owner.

43 **§ 15.2-2288.7. Local regulation of solar facilities.**

44 A. An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling
45 to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance
46 with any height and setback requirements in the zoning district where such property is located and (ii) in
47 compliance with any provisions pertaining to any local historic, architectural preservation, or corridor
48 protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local
49 ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property
50 zoned residential shall be permitted, provided that such installation is (a) in compliance with any height
51 and setback requirements in the zoning district where such property is located and (b) in compliance with
52 any provisions pertaining to any local historic, architectural preservation, or corridor protection district

53 adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other
54 solar facility proposed on property zoned residential, including any solar facility that is designed to serve,
55 or serves, the electricity or thermal needs of any property other than the property where such facilities are
56 located, shall be subject to any applicable zoning regulations of the locality.

57 B. An owner of real property zoned agricultural may install a solar facility on the roof of a
58 residential dwelling on such property, or on the roof of another building or structure on such property, to
59 serve the electricity or thermal needs of that property upon which such facilities are located, provided that
60 such installation is (i) in compliance with any height and setback requirements in the zoning district where
61 such property is located and (ii) in compliance with any provisions pertaining to any local historic,
62 architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such
63 property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy
64 generation facility to be located on property zoned agricultural and to be operated under § 56-594 or 56-
65 594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback
66 requirements in the zoning district where such property is located and (b) in compliance with any
67 provisions pertaining to any local historic, architectural preservation, or corridor protection district
68 adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any
69 other solar facility proposed on property zoned agricultural, including any solar facility that is designed
70 to serve, or serves, the electricity or thermal needs of any property other than the property where such
71 facilities are located, shall be ~~subject to any applicable zoning regulations of the locality permitted~~
72 pursuant to § 15.2-2288.8 unless otherwise permitted by right.

73 C. An owner of real property zoned commercial, industrial, or institutional may install a solar
74 facility on the roof of one or more buildings located on such property to serve the electricity or thermal
75 needs of that property upon which such facilities are located, provided that such installation is (i) in
76 compliance with any height and setback requirements in the zoning district where such property is located
77 and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or
78 corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local~~
79 ~~ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on

80 property zoned commercial, industrial, or institutional shall be permitted, provided that such installation
81 is (a) in compliance with any height and setback requirements in the zoning district where such property
82 is located and (b) in compliance with any provisions pertaining to any local historic, architectural
83 preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is
84 located. Except as otherwise provided herein, any other solar facility proposed on property zoned
85 commercial, industrial, or institutional, including any solar facility that is designed to serve, or serves, the
86 electricity or thermal needs of any property other than the property where such facilities are located, shall
87 be ~~subject to any applicable zoning regulations of the locality permitted pursuant to § 15.2-2288.8 unless~~
88 otherwise permitted by right.

89 D. An owner of real property zoned mixed-use may install a solar facility on the roof of one or
90 more buildings located on such property to serve the electricity or thermal needs of that property upon
91 which such facilities are located, provided that such installation is (i) in compliance with any height and
92 setback requirements in the zoning district where such property is located and (ii) in compliance with any
93 provisions pertaining to any local historic, architectural preservation, or corridor protection district
94 adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides~~
95 ~~otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned mixed-
96 use shall be permitted, provided that such installation is (a) in compliance with any height and setback
97 requirements in the zoning district where such property is located and (b) in compliance with any
98 provisions pertaining to any local historic, architectural preservation, or corridor protection district
99 adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other
100 solar facility proposed on property zoned mixed-use, including any solar facility that is designed to serve,
101 or serves, the electricity or thermal needs of any property other than the property where such facilities are
102 located, shall be subject to any applicable zoning regulations of the locality.

103 E. Nothing in this section shall be construed to supersede or limit contracts or agreements between
104 or among individuals or private entities related to the use of real property, including recorded declarations
105 and covenants, the provisions of condominium instruments of a condominium created pursuant to the
106 Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as

107 defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real
108 Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created
109 pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

110 F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any
111 zoning classification in addition to that provided in this section. A locality may also, by ordinance, require
112 a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (§ 36-97
113 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance in addition
114 to other applicable laws and regulations affecting such disposal.

115 **§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.**

116 A. ~~Any Each~~ locality ~~may grant~~ shall require a special exception pursuant to §§ 15.2-2204, § 15.2-
117 2286 and 15.2-2288.7 or a siting agreement pursuant to § 15.2-2316.7, and shall include in its zoning
118 ordinance ~~reasonable~~ regulations and provisions consistent with this section for a special exception as
119 defined in § 15.2-2201, for any solar photovoltaic ~~(electric energy) project or energy storage project. For~~
120 ~~the purposes of this section, "energy storage project" means energy storage equipment and technology~~
121 ~~within an energy storage project that is capable of absorbing energy, storing such energy for a period of~~
122 ~~time, and redelivering such energy after it has been stored. For the purposes of this section, "solar~~
123 photovoltaic project" means a ground-mounted solar facility with a generating capacity of one megawatt
124 or greater that is designed to serve, or serves, the electricity or thermal needs of any property other than
125 the property where such facilities are located.

126 Any special exception granted pursuant to this section is an amendment to the zoning ordinance
127 pursuant to § 15.2-2286.A.7 and shall comply with the following criteria. Where numerical ranges are
128 attached to criteria, localities may choose to establish an ordinance that specifies any number within the
129 applicable range that they deem appropriate for their community. In the issuance of a special exception, a
130 variance from these ordinance criteria may be implemented only with a written agreement of the locality,
131 the property owner or their agent, and the applicant. Nothing in this section shall (i) be construed to relieve
132 projects of the responsibility to comply with all relevant state and federal permits and regulations,
133 including those related to tree canopy (ii) require a locality to approve a special exception application

134 considered pursuant to this section; (iii) be construed to prohibit a locality from permitting a solar
135 photovoltaic project or energy storage project by right, or (iv) prohibit the owner of a proposed solar
136 photovoltaic project and a locality from entering into a siting agreement that provides less stringent
137 restrictions than those specified under this subsection.

138 1. Setback distances shall be measured from the nearest edge of the equipment as follows: (i)
139 between 150 and 200 feet from the nearest point on the outer wall of existing occupied community
140 buildings and dwellings on non-participating properties, (ii) between 50 and 100 feet from the outside
141 edge of the roadbed of any road abutting the property, (iii) between 100 and 250 feet from the edge of
142 "tidal wetlands" or "nontidal wetlands," as defined in 9 VAC 25-830, or "perennial streams" as defined
143 in § 62.1-44.122, and (iv) between 50 and 75 feet measured from the nearest shared property line for
144 nonparticipating properties. Nothing in this section shall preclude the owner of a nonparticipating property
145 from waiving the foregoing setback requirements by written agreement. Setbacks shall not be required for
146 internal boundaries between adjacent participating parcels.

147 2. Fencing for the facility must comply with § 55.1-2804, the latest version of the National
148 Electrical Safety Code or any applicable successor standard regarding requirements for limiting access to
149 facilities, and the Uniform Statewide Building Code (§ 36-97 et seq.). Vegetative visual screening
150 requirements shall not be required to exceed three feet at planting, shall be between 25 and 50 feet wide,
151 and shall allow for consideration of preexisting natural or manmade visual barriers.

152 3. The height of solar panels shall not exceed a maximum height of 25 feet above ground when
153 the arrays are at full tilt, except in cases where a height variance is necessary to allow for agrivoltaics
154 activity below or in proximity to the panels. For purposes of this section, "agrivoltaics" means the practice
155 of using the same land for both agriculture and solar energy production.

156 4. Visual impacts of facilities on public parks, scenic rivers and byways, and historic structures or
157 sites listed on or eligible for the National Register of Historic Places or a County Register of Historic
158 Places, shall be minimized. A locality may request a viewshed analysis as part of the special exception
159 application to assure that visual impacts are minimized through solar panel placement, height,

160 landscaping, and screening. Such analysis shall account for existing vegetation and planned visual buffers.
161 Such screening may be accomplished on any property with the consent of the property owner.

162 5. The facility shall implement light intensity dimming solution technology that provides a means
163 of tailoring the intensity level of lights according to surrounding visibility.

164 6. The facility shall comply with all Department of Environmental Quality stormwater regulations
165 as established in 9VAC25-880.

166 7. The facility shall minimize new impervious surface on the site and under its solar panels.

167 8. Land disturbance, including site grading, construction, and landscaping, shall be conducted in
168 compliance with a Stormwater Pollution Prevention Plan. Topsoil shall not be removed from the project
169 site. Topsoil shall be returned to disturbed areas from stockpiles as quickly as site conditions allow, unless
170 returning soil would cause adverse impacts to topsoil integrity, or is otherwise not practicable for
171 construction activities. Site stabilization shall occur as the site is developed, following appropriate
172 stabilization timelines as identified in the General Permit for Discharges of Stormwater from Construction
173 Activities, and shall not be delayed until site construction is completed. The facility shall decompact soil
174 as necessary and feasible for re-vegetation after construction has concluded.

175 9. When all land-disturbing activities at the construction site have been completed, the facility
176 shall initiate permanent stabilization to provide vegetative ground cover that provides a minimum level of
177 coverage over the project site. An ordinance may require up to 75 percent vegetative cover with no
178 significant bare areas that is mature enough to survive and will inhibit erosion. The use of native and
179 naturalized plants shall be encouraged and invasive plants as established pursuant to § 10.1-104.6:2 shall
180 be prohibited. For projects or portions of projects not used for animal grazing, co-located crop production,
181 native and naturalized pollinator plant species, or native and naturalized meadow species shall be planted,
182 except for in the area directly beneath panels, and maintained throughout the solar project's life. The seed
183 mix shall include a diversity of species with varied bloom times. Mowing shall be limited and performed
184 on a schedule that promotes the establishment of the native plantings, controls invasive species, and
185 minimizes impacts to wildlife. All trees and shrubs at the time of planting must accommodate adequate
186 screening or buffering by the end of between four and five years of planting. Vegetation used to establish

187 a visual screen shall not be trimmed to stunt upward and outward growth or to otherwise limit the
188 effectiveness of the visual screen.

189 10. The facility shall provide for wildlife passage where needed by limiting fencing to the areas in
190 reasonable proximity to arrays and interconnection equipment to the extent practicable and consistent with
191 safety and security requirements. The facility shall prioritize open wildlife access to riparian areas,
192 wetlands, streams, and other areas not in proximity to panels.

193 11. The facility shall comply with all applicable state and federal labor and employment laws,
194 including apprenticeships and labor standards necessary to achieve any available tax credit bonuses found
195 in 26 U.S.C. §§ 45Y and 48E.

196 12. A locality shall require an applicant to enter into a written agreement to decommission
197 equipment, facilities, or devices pursuant to § 15.2-2241.2.

198 B. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning
199 ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for an
200 energy storage project. For the purposes of this section, "energy storage project" means energy storage
201 equipment and technology within an energy storage project that is capable of absorbing energy, storing
202 such energy for a period of time, and redelivering such energy after it has been stored.

203 BC. The governing body of such locality may grant a condition that includes (i) dedication of real
204 property of substantial value or (ii) substantial cash payments for or construction of substantial public
205 improvements, the need for which is not generated solely by the granting of a conditional use permit, so
206 long as such conditions are reasonably related to the project.

207 CD. Once a condition is granted pursuant to subsection B.C., such condition shall continue in effect
208 until a subsequent amendment changes the zoning on the property for which the conditions were granted.
209 However, such conditions shall continue if the subsequent amendment is part of a comprehensive
210 implementation of a new or substantially revised zoning ordinance.

211 E. The governing body of such locality shall furnish the State Corporation Commission a record
212 of special exception decisions reached pursuant to this section not more than 60 days after such decision

213 is made. The record shall include (i) the reason for any adverse decision, (ii) any finding of nonconformity
214 with the local comprehensive plan, and (iii) the date of the last revision to the comprehensive plan.

215 **2. That the State Corporation Commission shall compile and maintain on the Commission’s public**
216 **website a searchable database of all solar special exception decisions and the reasons for any adverse**
217 **decisions made over a period of not less than 5 years. The Commission shall furnish to each locality**
218 **a standardized form for submitting decision records by July 1, 2026.**

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