

# Siting Agreements for Solar Projects or Energy Storage Projects

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# Legislative History

- ▶ HB 1675 (2020) required applicants intending to locate a solar facility in an opportunity zone to negotiate a siting agreement with the locality. Clarified that the provisions of this act shall not apply to any solar facility that has received zoning and site plan approval, preliminary or otherwise, from the locality on or before January 1, 2020.
- ▶ HB 2201 (2021) amended the Code to also require applicants for an energy storage project to negotiate a siting agreement with the locality. The General Assembly also required the siting agreement even if the solar facility or energy storage project was located outside of an opportunity zone. Clarified that the provisions of this act shall not apply to any energy storage project that has received zoning and site plan approval, preliminary or otherwise, from the host locality before January 1, 2021.



# Exemptions from Siting Agreement

- ▶ Definition of “solar facilities” in Virginia Code §15.2-2316.6 exempts any solar project that is (i) described in § 56-594, 56-594.01, 56-594.02, or 56-594.2, or (ii) five megawatts or less.
  - ▶ §56-594 and 56-594.01- Net Energy Metering
  - ▶ §56-594.02 – Power Purchase Agreements
  - ▶ §56-594.2 – Small agricultural generators
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## Virginia Code § 15.2-2316.7. Negotiations; siting agreement.

- ▶ Any applicant for a solar project or an energy storage project shall give to the County written notice of the applicant's intent to locate in the County and request a meeting. Such applicant shall meet, discuss, and negotiate a siting agreement with the County.
- ▶ The siting agreement may include terms and conditions, including (i) mitigation of any impacts of such solar project or energy storage project; (ii) financial compensation to the County to address capital needs set out in the (a) capital improvement plan adopted by the County, (b) current fiscal budget of the County, or (c) fiscal fund balance policy adopted by the County; or (iii) assistance by the applicant in the deployment of broadband, as defined in § [56-585.1:9](#), in the County.



## § 15.2-2316.8. Powers of host localities.

- ▶ The Board shall have the power to:
  1. Hire and pay consultants and other experts on behalf of the County in matters pertaining to the siting of a solar project or energy storage project;
  2. Meet, discuss, and negotiate a siting agreement with an applicant; and
  3. Enter into a siting agreement with an applicant that is binding upon the Board and enforceable against it and future governing bodies of the County in any court of competent jurisdiction by signing a siting agreement pursuant to this article. Such contract may be assignable at the parties' option.
  
- ▶ Once the parties agree to the terms and conditions, the County shall schedule a public hearing to consider the agreement.





## § 15.2-2316.9. Effect of executed siting agreement; land use approval.

- ▶ Does not exempt the applicant from requirements to obtain approvals and permits under federal, state, or local ordinances and regulations.
- ▶ An applicant may file for appropriate land use approvals for the solar project or energy storage project, at or after the time the applicant submits its notice of intent to site a solar project or energy storage project.
- ▶ Does not affect the authority of the County to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.
- ▶ Approval of a siting agreement by the Board shall deem the solar project or energy storage project to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.
- ▶ The failure of an applicant and the Board to enter into a siting agreement may be a factor in the decision of the Board in the consideration of any land use approvals for a solar project or energy storage project, but shall not be the sole reason for a denial of such land use approvals.

QUESTIONS?

