

# Demystifying Solar and Energy Storage Projects Host Siting Agreements

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## Host Siting Agreements for Solar and Energy Storage Projects

- First enacted in 2020 (energy storage added in 2021), siting agreements allow localities to negotiate contractual terms and conditions that bind the applicant and the locality regarding a specific project.
- Expansive and unique local land use authority to help mitigate impacts **and to provide benefits not directly related to the development**
- Part of the land use approval process in addition to the zoning ordinance requirements and special exception (conditional use) permit conditions
- Va. Code § [15.2-2316.6 et seq.](#)

# Key Definitions

- **"Host locality"** means any locality within the jurisdictional boundaries of which construction of a commercial solar project or an energy storage project is proposed.
- **"Energy storage facilities"** means the energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.
- **"Solar facilities"** means commercial solar photovoltaic (electric energy) generation facilities. "Solar facilities" does not include 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.

# The Process and Impacts

- Written notice from applicant of intent to locate in locality and request for meeting starts negotiations
- Governing Body (not Planning Commission)
- Public hearing prior to approval (by simple majority of quorum)
- Binding on current and future governing bodies – in effect until amended, revoked or suspended
- If approved – then project deemed to be in substantial accord with comp. plan
- **Failure to reach agreement can be used as a factor (not sole reason) in consideration and denial of related land use approvals**

## Broad authority for terms and conditions

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 host locality to address **capital needs** set out in the (a) **capital improvement plan** adopted by the host locality, (b) **current fiscal budget** of the host locality, or (c) **fiscal fund balance policy** adopted by the host locality; or
- (iii) assistance by the applicant in the **deployment of broadband**, as defined in § [56-585.1:9](#), in such locality. Va. Code §15.2-2316.7

## Potential Terms and Conditions (Don't fear being creative)

### **If not addressed in zoning ordinance or CUP:**

- Setbacks/vegetative buffers
- Decommissioning and bonding
- Site access for enforcement
- Hours of construction, fencing, noise, traffic, etc.

### **Other potential terms and conditions:**

- Cash payments (and schedule) for identified capital needs
- Cash for broadband deployment
- Dedication of land for open space preservation or public use
- Creation of natural resources protection areas or wildlife corridors
- Training of fire and rescue personnel
- *Be creative but stay within statutory authority and understand projects don't have unlimited resources*

# Siting Agreements are just part of the puzzle

## Other important pieces:

- Zoning Ordinance
- Comprehensive Plan Generally, and
  - (“2232” Substantial Accord Process)
- Special Exception/Conditional Use Permit
- Revenue Sharing v. Machinery & Tools tax

# Questions?

***Thank you!***

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