

ORDINANCE NO. 2410

AN ORDINANCE OF THE CITY OF SALISBURY, MARYLAND, PURSUANT TO CHAPTER 17.228 OF TITLE 17, ZONING OF THE SALISBURY MUNICIPAL CODE AND SECTION 4.04 OF ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND FOR THE PURPOSE OF AMENDING SECTIONS 17.156.030, 17.160.030, AND 17.04.120 TO ADD SOLAR FARMS AND A DEFINITION OF SOLAR FARMS IN THE R-5, R-8, R-10, R-5A, R-8A, AND R-10A RESIDENTIAL DISTRICTS.

WHEREAS, the ongoing application, administration and enforcement of Title 17, Zoning of the Salisbury Municipal Code, demonstrates a need for periodic review, evaluation, and amendments that will keep Title 17 current; and

WHEREAS, the Mayor and City Council may amend Title 17, Zoning, of the Salisbury Municipal Code, pursuant to the authority granted by Article 66B of the Maryland Annotated Code and in accordance with specific provisions of Chapter 17.228, Amendments and Rezoning, of Title 17, Zoning; and

WHEREAS, the Mayor and City Council requested that the Salisbury Planning and Zoning Commission periodically review Title 17 in light of existing procedural practices and input from the City Council and members of the public; and

WHEREAS, Pastor Robert C. Reinert, Jr. of Faith Baptist Church submitted an application to amend the text of the Residential Districts; and

WHEREAS, a Public Hearing on the proposed amendment was held by the Planning Commission in accordance with the provisions of Chapter 17.228, of Title 17, Zoning, of the Salisbury Municipal Code on October 20, 2016; and

WHEREAS, the Planning Commission did recommend approval of the proposed text amendments to Sections 17.156.030, 17.160.030, and 17.04.120;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that Title 17, Zoning, of the Salisbury Municipal Code is hereby amended as follows:

AMEND SECTION 17.156.030, USES PERMITTED BY SPECIAL EXCEPTION, BY ADDING THE FOLLOWING ITEM:

F. SOLAR FARM.

AMEND SECTION 17.160.030, USES PERMITTED BY SPECIAL EXCEPTION, BY ADDING THE FOLLOWING ITEM:

F. SOLAR FARM.

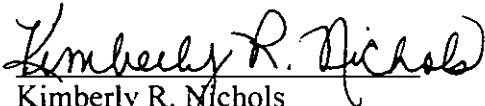
AMEND SECTION 17.04.120 BY ADDING THE FOLLOWING ITEM:


SOLAR FARM - A UTILITY-SCALE ENERGY GENERATION FACILITY, PRINCIPALLY USED TO CONVERT SOLAR ENERGY TO ELECTRICITY FOR THE PRIMARY PURPOSE OF WHOLESALE OR RETAIL SALES OF SAID ELECTRICITY.

AND BE IT FURTHER ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall take effect from and after the date of its final passage, but in no event until ten (10) days after the date of the Council's Public Hearing, and

THE ABOVE ORDINANCE was introduced at a meeting of the Council on the 12th day of December, 2016, and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the 9th day of January, 2017.

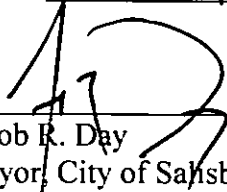
ATTEST:


Kimberly R. Nichols
City Clerk


John R. Heath, President
Salisbury City Council

Approved by me this 14th

day of JANUARY, 2017.



Jacob R. Day
Mayor, City of Salisbury



City of Salisbury – Wicomico County
DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT
P.O. BOX 870
125 NORTH DIVISION STREET, ROOMS 203 & 201
SALISBURY, MARYLAND 21803-4860
410-548-4860
FAX: 410-548-4955




JACOB R. DAY
MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

BOB CULVER
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

October 27, 2016

TO: Tom Stevenson, City Administrator
FROM: John F. Lenox, AICP, Director, Salisbury/Wicomico Planning & Zoning 
SUBJECT: PUBLIC HEARING – Text Amendment – To add Solar Farms in the Residential Districts - Planning Commission Recommendation

I. INTRODUCTION.

On October 20, 2016, the Salisbury Planning Commission held a public hearing on a request by Faith Baptist Church for the above-noted text amendment relative to the addition of Solar Farms in the Residential Districts. (See Attachments A-C.)

II. RECOMMENDATION.

The Salisbury Planning Commission forwarded a **Favorable** recommendation to the Mayor and Council for proposed amendments as follows.

AMEND SECTION 17.156.030, Uses permitted by Special Exception, by Adding the following Item:

F. Solar Farm.

AMEND SECTION 17.160.030, Uses permitted by Special Exception, by Adding the following Item:

F. Solar Farm.

AMEND SECTION 17.04.120 by Adding the following Item:

SOLAR FARM - A UTILITY-SCALE ENERGY GENERATION FACILITY, PRINCIPALLY USED TO CONVERT SOLAR ENERGY TO ELECTRICITY FOR THE PRIMARY PURPOSE OF WHOLESALE OR RETAIL SALES OF SAID ELECTRICITY.

Unless you or the Mayor has further questions, please forward this memo and its attachments to the City Council.

III. BACKGROUND.

The Zoning Code currently provides for Public or Private Utility Buildings inherently in the Industrial District and by Ordinance Permit in the General Commercial, Select Commercial, and Light Industrial Districts.

The decades-old definition for "Public or Private Utility Buildings" did not anticipate the development of solar technology. Renewable energy legislation (S.B. 277) was passed in Maryland in 2010 and became effective in 2011. The State has a renewable energy goal of 20 percent by 2022. The legislation was passed to provide guidance to utilities as they began including more renewable energy to their mix. The Public Service Commission (PSC) is authorized to issue a Certificate of Public Convenience and Necessity for the construction of new "generating Stations" having an output in excess of 2,000 kilowatts (2MW).

By permitting these uses by Special Exception, the applications would then be processed through the Salisbury Board of Zoning Appeals at a public hearing. Setbacks, screening or fencing, height, and bonds (for future decommissioning) can be addressed through conditions on a case-by-case basis.

Attachments



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

410-548-4860

FAX: 410-548-4955



JACOB R. DAY
MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

BOB CULVER
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

October 24, 2016

Pastor Robert C. Reinert, Jr.
30505 Dagsboro Road
Salisbury, MD 21804

FILE COPY
SALISBURY-WICOMICO
PLANNING

RE: #SP-1608 – PUBLIC HEARING – TEXT AMENDMENT – To add Solar Farms by Special Exception in the Residential Districts – Faith Baptist Church.

Dear Pastor Reinert:

The Salisbury Planning Commission at its October 20, 2016, meeting, forwarded a **FAVORABLE** recommendation to the Mayor and Council for the proposed amendment that would permit up Solar Farms by Special Exception in the Residential Districts: R-5, R-8, and R-10 Districts, R-5A, R-8A, and R-10A Districts, as follows:

AMEND SECTION 17.156.030, Uses permitted by Special Exception, by Adding the following Item:

F. Solar Farm.

AMEND SECTION 17.160.030, Uses permitted by Special Exception, by Adding the following Item:

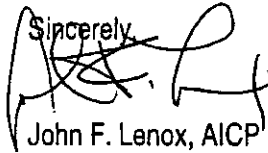
F. Solar Farm.

AMEND SECTION 17.04.120 by Adding the following Item:

SOLAR FARM - A UTILITY-SCALE ENERGY GENERATION FACILITY, PRINCIPALLY USED TO CONVERT SOLAR ENERGY TO ELECTRICITY FOR THE PRIMARY PURPOSE OF WHOLESALE OR RETAIL SALES OF SAID ELECTRICITY.

This recommendation will be forwarded to the City Administrator for scheduling with the City Council. You will be notified of future meeting dates.

If you have any questions concerning this matter, please don't hesitate to contact Gloria Smith or myself at 410-548-4860.

Sincerely,


John F. Lenox, AICP
Director
Salisbury/Wicomico Planning & Zoning

cc: Mike Moulds, Director of City Public Works Department
Bill Holland, Director of Building, Permits, and Inspections Department
Assessments



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

410-548-4860

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JACOB R. DAY
MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

BOB CULVER
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

STAFF REPORT

MEETING OF OCTOBER 20, 2016

CASE NO.: #SP-1608

APPLICANT: Faith Baptist Church

REQUEST: **PUBLIC HEARING – Text Amendment -
To amend Title 17, Zoning - to add Solar
Farms in the Residential Districts.**

I. REQUEST:

Rev. Robert Reinert, Jr., on behalf of the Faith Baptist Church, has submitted a request to amend the text of Title 17, Zoning, to add Solar Farms as permitted uses in the Residential Districts. Specifically, the church proposes adding solar farms in the R-5A, R-8A, and R-10A Districts. (See Attachment #1.)

In accordance with the requirements of Section 17.228 of the Salisbury Municipal Code, the Planning Commission must hold a Public Hearing on proposed Text Amendments to the Code. The Commission must forward a recommendation (within six months) to the City Council. The City Council must also hold a public hearing before granting final approval to Code text amendments (by Ordinance).

II. DISCUSSION:

Faith Baptist Church owns 44.5 acres on Dagsboro Road that was annexed to the City in 2006. About 15 acres of the property is developed with the church and associated uses. Approximately 29 acres that was proposed for development as Martin's Mill remains largely undeveloped. The Annexation Plan as presented to the Mayor and Council included a concept plan for 149 townhouse and duplex units. The church now proposes installation of a solar farm on this property. This would necessitate both an amendment to the Zoning Code and approval of a significant change to the Concept Plan of annexation.

The Zoning Code currently provides for Public or Private Utility Buildings inherently in the Industrial District and by Ordinance Permit in the General Commercial, Select Commercial, and Light Industrial Districts. The following definition is included in the Code:

"Public" or "private utility buildings and uses" means facilities and structures owned or maintained by a government a public or private agency or a public or private utility company for the purpose of and directly necessary for rendering or providing communication, electric, gas, sewer, water or comparable service of a public utility nature, and in fact used in the rendition of such service. Nothing in this title or amendment thereto is intended to limit or restrict the use of property in any zone for poles, mains, pipes, conduits or wires erected and maintained for the transmission and distribution of electric energy over wires for any lawful purpose or gas to customers for such energy or municipal water or sewer services or any equipment or device necessary or incident to such use or uses.

This decades-old definition did not anticipate the development of solar technology. Renewable energy legislation (S.B. 277) was passed in Maryland in 2010 and became effective in 2011. The State has a renewable energy goal of 20 percent by 2022. The legislation was passed to provide guidance to utilities as they began including more renewable energy to their mix. The Public Service Commission (PSC) is authorized to issue a Certificate of Public Convenience and Necessity for the construction of new "generating Stations" having an output in excess of 2,000 kilowatts (2MW).

The American Planning Association has several briefing papers to assist Planners with common questions and concerns regarding solar energy. Many communities recognize the economic and environmental benefits of local renewable energy, generally, and solar energy specifically. By increasing their use of solar energy, communities can decrease air pollution, greenhouse gas emissions, and the impacts that mining or drilling for fossil fuels have on the environment and surrounding communities. One of the keys to local-solar market growth is a supportive regulatory environment.

Other jurisdictions have addressed renewable energy, and particularly solar farms, in a number of ways, including the adoption of separate zoning chapters to address these developments. Everything from setbacks, height, fencing, screening, lot coverage and glare to decommissioning have been included in various ordinances. A variety of definitions have also been used, including the following from Dyersburg, Tennessee:

"A utility-scale energy generation facility, principally used to convert solar energy to electricity for the primary purpose of wholesale or retail sales of said electricity."

Setbacks have ranged from minimum setbacks for the zoning district, to 50 ft. from any lot line, to 100 ft. from all property lines, to 500 ft. from residentially zoned properties.

Height limitations have ranged from 10 ft. above the finished floor elevation of a principle structure, to 15 ft., to 20 ft., to 20 ft. if meeting the setback of the principle structure.

Warren County, North Carolina requires a vegetative buffer to be planted that is 3 ft. at the time of planting and reaches 8 ft. in height within 5 years. Fencing requirements range between 6 and 8.5 ft. in height. Port St. Lucie, Florida and Dyersburg, Tennessee require submission of Site Plans.

In Wicomico County, the use is considered a privately owned and operated utility. These uses are permitted inherently in the Industrial and Commercial Districts and are permitted by Special Exception in all other districts. The Code includes the following definition for a Public Utility:

“Facilities and structures owned or maintained by a public agency or a public company for the purpose of and directly necessary for rendering or providing communication, electric, gas, sewer, water or comparable service and, in fact, used in the rendition of such services. For purposes of this definition, wireless telecommunication towers shall not be considered a public utility.”

Solar panels have a projected life-span of 25 years. Several jurisdictions require a decommissioning plan for when the life-span of the system closes.

The applicants have proposed this use in residential districts where the Code requires a 25 ft. front setback, a 30 ft. rear setback and 10 ft. side setbacks for principle structures.

III. PLANNING COMMENTS/CONCERNS.

The Planning Staff compiled a list of properties that have been annexed to the City since 2006 that remain undeveloped. Six of these properties are zoned R-10A Residential and three more are zoned R-10 Residential. The properties range in size from 16 acres to 156 acres. In addition, there are 234 acres off Connelly Mill Road zoned R-8A Residential that remains undeveloped.

For consistency between City and County applications, consideration should be given to permitting these uses by Special Exception. Applications would then be processed through the Salisbury Board of Zoning Appeals at a public hearing. Setbacks, screening or fencing, height, and bonds (for future decommissioning) can be addressed through conditions on a case-by-case basis.

The proposed solar farms are separate from and a larger scale than those installed as accessory uses to serve an individual home or small business. The Code defines Accessory Use as:

"Accessory use" means a use which is customarily incidental and subordinate to a principal use and which is located on the same lot therewith.

IV. RECOMMENDATION.

Staff recommends that the Commission forward a **FAVORABLE** recommendation to the Mayor and Council for the proposed amendment that would permit up Solar Farms by Special Exception in the Residential Districts: R-5, R-8, and R-10 Districts, R-5A, R-8A, and R-10A Districts, as follows:

AMEND SECTION 17.156.030, Uses permitted by Special Exception, by Adding the following Item:

F. Solar Farm.

AMEND SECTION 17.160.030, Uses permitted by Special Exception, by Adding the following Item:

F. Solar Farm.

AMEND SECTION 17.04.120 by Adding the following Item:

SOLAR FARM - A UTILITY-SCALE ENERGY GENERATION FACILITY, PRINCIPALLY USED TO CONVERT SOLAR ENERGY TO ELECTRICITY FOR THE PRIMARY PURPOSE OF WHOLESALE OR RETAIL SALES OF SAID ELECTRICITY.

COORDINATOR: Gloria Smith, Planner
DATE: October 13, 2016

Vacant Annexed Lands

Name/Location	Zoning	Acres
Faith Baptist Church – Dagsboro Road (Martin’s Mill)	R-10A	30.0
Village at Parsons Lake – Ruark – Brown Road	R-10A	168.37
Rajun Cajun – Naylor Mill Road	R-10A	40.0
Farlow Fields – Beaglin Park Drive Ext.	R-10A	37.5
Sassafras Meadows – West Road	R-10A	40.77
Glen Heights – Glen Avenue	R-10A	16.00
Cotton Patch – Pemberton Road	R-10	40.27
Johnson’s Retreat – Johnson Road	R-10	24.4
Three Creeks – Jersey Road	R-10	156.92
Hazel – Snow Hill Road	R-8A/Gen. Comm.	42.6
Millers Edge – Pemberton Drive	R-8	19.13
Causey rezoning – off Foskey Lane	R-8A	234.85
Forest Glen – Queen Avenue	R-5	19.12



Faith Baptist Church

reaching UP reaching OUT reaching III

Robert C. Reinert, Jr.
SENIOR PASTOR

Timothy J. Binkley
YOUTH PASTOR

B. Mark Zockoll, Jr.
SCHOOL
ADMINISTRATOR

September 9, 2016

Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
Government Office Building
P. O. Box 870
Salisbury, MD 21803-0870

Attention: Gloria Smith, Planner

Gentlemen:

RE: Text Amendment Request

We would request a Text Amendment to Sect. 17.160 of the Salisbury Municipal Code for R-5A, R-8A and R-10A, to add Solar Farms to the permitted usages.

The necessity of this change will allow land within the city limits to be used in a way that will benefit the environment and the residents of our city.

Thank you for your consideration.

Sincerely yours,

Robert C. Reinert, Jr.
Senior Pastor
Faith Baptist Church

RCR:sab
Enclosure: \$200 application fee

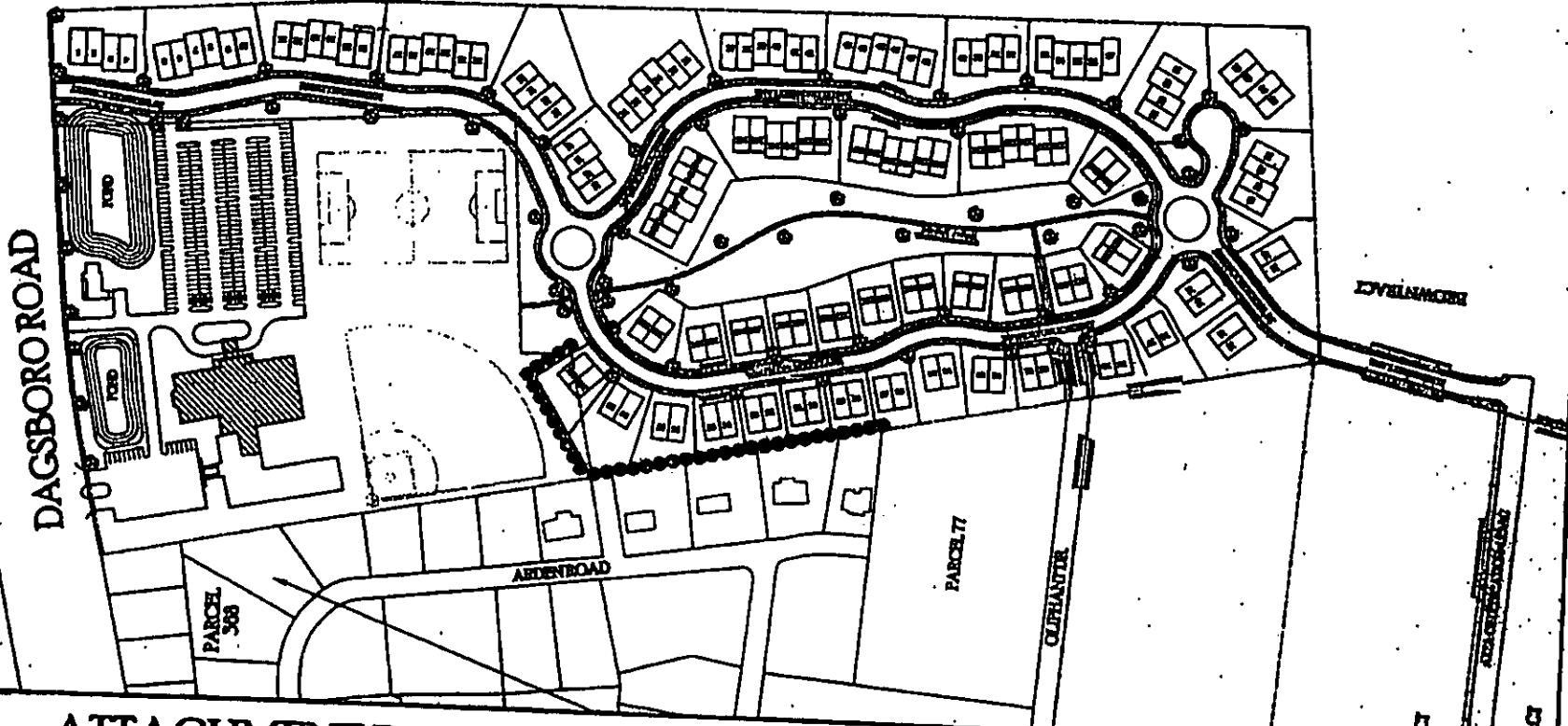
PLANNING DEPARTMENT

RECEIVED

DATE 9/15/16 BY

30505 Dagsboro Road • Salisbury, MD 21804
410-742-9516 • Fax: 410-742-2815
e-mail: fbsalisb@dmv.com • www.faithbaptist.ws

Attachment #1



ATTACHMENT B - CONCEPT DEVELOPMENT PLAN

FAITH BAPTIST CHURCH / MARTINS MILL ANNEXATION
DAGSBORO ROAD, NORTH SALISBURY
CITY OF SALISBURY, MARYLAND

SCALE 1"=200'



Attachment #2

EXHIBIT "B"

ORDINANCE NO. 2410

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3
4 **AN ORDINANCE OF THE CITY OF SALISBURY, MARYLAND,**
5 **PURSUANT TO CHAPTER 17.228 OF TITLE 17, ZONING OF THE**
6 **SALISBURY MUNICIPAL CODE AND SECTION 4.04 OF ARTICLE 66B**
7 **OF THE ANNOTATED CODE OF MARYLAND FOR THE PURPOSE OF**
8 **AMENDING SECTIONS 17.156.030, 17.160.030, AND 17.04.120 TO ADD**
9 **SOLAR FARMS AND A DEFINITION OF SOLAR FARMS IN THE R-5,**
10 **R-8, R-10, R-5A, R-8A, AND R-10A RESIDENTIAL DISTRICTS.**

11
12 **WHEREAS,** the ongoing application, administration and enforcement of Title 17,
13 Zoning of the Salisbury Municipal Code, demonstrates a need for periodic review, evaluation,
14 and amendments that will keep Title 17 current; and

15 **WHEREAS,** the Mayor and City Council may amend Title 17, Zoning, of the Salisbury
16 Municipal Code, pursuant to the authority granted by Article 66B of the Maryland Annotated
17 Code and in accordance with specific provisions of Chapter 17.228, Amendments and Rezoning,
18 of Title 17, Zoning; and

19 **WHEREAS,** the Mayor and City Council requested that the Salisbury Planning and
20 Zoning Commission periodically review Title 17 in light of existing procedural practices and
21 input from the City Council and members of the public; and

22 **WHEREAS,** Pastor Robert C. Reinert, Jr. of Faith Baptist Church submitted an
23 application to amend the text of the Residential Districts; and

24 **WHEREAS,** a Public Hearing on the proposed amendment was held by the Planning
25 Commission in accordance with the provisions of Chapter 17.228, of Title 17, Zoning, of the
26 Salisbury Municipal Code on October 20, 2016; and

27 **WHEREAS,** the Planning Commission did recommend approval of the proposed text
28 amendments to Sections 17.156.030, 17.160.030, and 17.04.120;

29 **NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF**
30 **SALISBURY, MARYLAND,** that Title 17, Zoning, of the Salisbury Municipal Code is hereby
31 amended as follows:

32 **AMEND SECTION 17.156.030, USES PERMITTED BY SPECIAL**
33 **EXCEPTION, BY ADDING THE FOLLOWING ITEM:**

34
35 **F. SOLAR FARM.**

36
37 **AMEND SECTION 17.160.030, USES PERMITTED BY SPECIAL**
38 **EXCEPTION, BY ADDING THE FOLLOWING ITEM:**

39
40 **F. SOLAR FARM.**

41
42 **AMEND SECTION 17.04.120 BY ADDING THE FOLLOWING ITEM:**

43
44 **SOLAR FARM - A UTILITY-SCALE ENERGY GENERATION FACILITY,**
45 **PRINCIPALLY USED TO CONVERT SOLAR ENERGY TO**
46 **ELECTRICITY FOR THE PRIMARY PURPOSE OF WHOLESALE**
47 **OR RETAIL SALES OF SAID ELECTRICITY.**

48
49 **AND BE IT FURTHER ORDAINED BY THE CITY OF SALISBURY,**
50 **MARYLAND,** that this Ordinance shall take effect from and after the date of its final passage,
51 but in no event until ten (10) days after the date of the Council's Public Hearing, and

52 **THE ABOVE ORDINANCE** was introduced at a meeting of the Council on the
53 ____ day of _____, 2016, and thereafter, a statement of the substance of the ordinance having
54 been published as required by law, in the meantime, was finally passed by the Council on the
55 ____ day of _____, 2016.

56 ATTEST:

57
58
59
60 _____
61 Kimberly R. Nichols
62 City Clerk

63
64
65
66 _____
67 John R. Heath, President
68 Salisbury City Council

65 Approved by me this
66
67 day of _____, 2017.
68
69
70 _____
71 Jacob R. Day
72 Mayor, City of Salisbury