Zoning Text Amendment No.: 20-01
Concerning: Solar Collection System – AR Zone Standards
Draft No. & Date: 7 – 7/30/2020
Introduced: January 21, 2020
Public Hearing: Adopted: Effective:

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Riemer and Council Vice President Hucker
Co-Sponsor: Councilmember Rice

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the Solar Collection System use standards to allow larger facilities in the AR zone;
- amend the provisions for Solar Collection Systems in other zones; and
- amend the provisions for site plan approval in the AR zone.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 3.7. “Miscellaneous Uses”
Section 3.7.2. “Solar Collection System”
Division 7.3. “Regulatory Approvals”
Section 7.3.4. “Site Plan”

EXPLANATION: **Boldface** indicates a Heading or a defined term.
*Underlining* indicates text that is added to existing law by the original text amendment.
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*Single boldface brackets*] indicate text that is deleted from existing law by original text amendment.
*Double underlining* indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
* * * * indicates existing law unaffected by the text amendment.
ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:
Sec. 1. DIVISION 59-3.7 is amended as follows:

Division 3.7. Miscellaneous Uses
* * *

Section 3.7.2. Solar Collection System

A. Defined

Solar Collection System means an arrangement of panels or other solar energy devices that provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. A Solar Collection System includes freestanding or mounted devices. Solar Collection Systems are facilities that comply with the requirements of the State’s net metering program under Maryland Code §7-306 and COMAR 20.50.10. A Solar Collection System use does not include a facility that produces more than 2 MW of electricity; such facilities may be allowed as a public utility use under Section 3.6.7.E.

B. Use Standards

Where a Solar Collection System is allowed as a limited use, it must satisfy the following standards:

1. In the Agricultural Reserve zone, [[all of the standards in Subsection 3.7.2.B.2.b. and]] the following standards in either Subsection 59.3.7.2.B.1.a or 59.3.7.2.B.1.b apply:

   a. Systems producing 200% or less of on-site energy use

   A Solar Collection System is allowed as an accessory use where the system produces up to 200% of annual baseline energy use on-site and must satisfy the following requirements:
[b][[a]]i. Solar panels may encroach into a setback as allowed under Section 4.1.7.B.5.c and may exceed the maximum height as allowed under Section 4.1.7.C.3.b.

[ii. Written authorization from the local utility company must be provided for a Solar Collection System that will be connected to the utility grid.

[c][[b]]iii. Removal of trees or landscaping otherwise required or attached as a condition of approval of any plan, application, or permit for the installation or operation of a Solar Collection System is prohibited.

[d. Solar panels may encroach into a setback as allowed under Section 4.1.7.B.5.c and may exceed the maximum height as allowed under Section 4.1.7.C.3.b.] 

[e. A freestanding Solar Collection System is allowed only as an accessory use where the system produces a maximum of 120% of on-site energy consumption and must satisfy the same development standards as an accessory structure.]

b. Systems producing more than 200% of on-site energy use Except for the screening and fence requirements in Subsection 59.3.7.2.B.2.b.iv.C and 59.3.7.2.B.2.b.v.C, a Solar Collection System must satisfy the requirements of Subsection 59.3.7.2.B.2 and 59.7.3.4.E.5.

[[c. Except as allowed under Subsection 59.7.3.4.E.5.b, the site must be designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program.]]

[[d. Cumulatively, on all AR zoned land, a maximum of 1,800 acres of land may be covered by solar panels.]]
2. In Rural Residential, Residential, Commercial/Residential, Employment, and Industrial zones, where a Solar Collection System is allowed as a limited use, [it must either satisfy Subsection 59.3.7.2.B.1.a through Subsection 59.3.7.2.B.1.e or] it must satisfy the following standards in either [[subsection a or b]] Subsection 59.3.7.2.B.2.a or 59.3.7.2.B.2.b:

a. **Systems producing 120% or less of on-site energy use**

The Solar Collection System [[must]] may be an accessory use [[as follows]] under the following standards:

i. the system produces [[a maximum of]] up to 120% of annual baseline on-site energy [[consumption]] use:

ii. encroachment allowed under Section 4.1.7.B.5.C; and

iii. a maximum height allowed under 4.1.7.C.3.b.

b. **Systems Producing more than 120% of on-site energy use**

The Solar Collection System must satisfy the following standards:

[a] i. Site plan approval is required under Section 7.3.4.

[b] ii. The site must be a minimum of 3 acres in size.

[c] iii. The system may produce a maximum of 2 megawatts (AC).

[d] iv. All structures must be:

[i] A. 20 feet in height or less;

[ii] B. located at least 50 feet from any property line; and

[iii] C. surrounded by a minimum 6-foot-tall fence.

[e] v. If a structure for a Solar Collection System is located in an area visible to an abutting residential use or a road:
only solar thermal or photovoltaic panels or
shingles may be used;

the panels or shingles must use textured glass or an
anti-reflective coating; and

screening that satisfies Section 59.6.5.3.C.8
(Option A) on the sides of the facility visible from
the residential use or road is required.

The Solar Collection System must be removed within 12
months of the date when the use is discontinued or
abandoned by the system owner or operator, or upon
termination of the useful life of the system. The Solar
Collection System will be presumed to be discontinued
or abandoned if no electricity is generated by the system
for a period of 12 continuous months.

If licensed by the Public Service Commission, [A] a
system designed to produce more than 2 megawatts (AC)
[may be allowed as a public utility use under Section
3.6.7.E] is not restricted by Chapter 59.]]

Sec. 2. DIVISION 59-7.3 is amended as follows:

Division 7.3. Regulatory Approvals

Section 7.3.4. Site Plan

E. Necessary Findings

5. For property zoned AR proposed for use as a Solar Collection system:
a. the Solar Collection System is not located:
   i. on soils classified by the United States Department of Agriculture as Soil Classification Category 1;
   ii. in a stream buffer;
   iii. on wetlands; or
   iv. on slopes equal to or greater than 15%;

b. topsoil has not and will not be scraped from the site;
   [a] grading and any soil removal will be minimized; [[and]]
   [b]d. the site must be:
      i. designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program[[I, or any land on which the solar generation facility is located that is not designated as pollinator friendly must be]]; or
      ii. planted, managed, and maintained in a manner suitable for grazing farm animals[[I]]; or
      iii. planted, managed, and maintained for any other agrivoltaic plant material;

e. removing of trees or landscaping otherwise required or attached as a condition of approval of any plan, application, or permit for the installation or operation of a Solar Collection System is prohibited:
   i. the forest conservation requirements of Chapter 22A must be satisfied;
   ii. any tree in or on a floodplain, stream buffer, steep slope, critical habitat, contiguous forest, or historic site, and any champion tree or other exceptionally large tree must be
left undisturbed unless a disturbance is allowed under Section 22A-12(b)(1);

f. the requirements of Chapter 19, Erosion, Sediment Control and Stormwater Management must be satisfied;
g. except for pad areas for transformers and electrical equipment, the use of concrete must be prohibited;
h. screening that satisfies Section 59.6.5.3.C.8 (Option A) on the sides of the facility within 200 feet of any neighboring house is required; however, a fence may not by required or prohibited;
i. written authorization from the local utility company that allows the Solar Collection System to be connected to the utility grid must be submitted; and
j. the land area approved, in addition to all other site plan approvals, will not exceed 1,800 acres of land.

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Sec. 3. Reporting. On April 1, 2021 and annually thereafter, the [[Department of Permitting Services]] Planning Director must report to the County Council the total acreage of Solar Collection System [[permits]] site plans approved by the Planning Board in the Agricultural Reserve [[approved by the Department]] since the effective date of ZTA 20-01.

Sec. 4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.
Clerk of the Council