

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.
[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:

1 **Sec. 1. DIVISION 59-3.7 is amended as follows:**

2 **Division 3.7. Miscellaneous Uses**

3 * * *

4 **Section 3.7.2. Solar Collection System**

5 **A. Defined**

6 Solar Collection System means an arrangement of panels or other solar
7 energy devices that provide for the collection, inversion, storage, and
8 distribution of solar energy for electricity generation, space heating, space
9 cooling, or water heating. A Solar Collection System includes freestanding
10 or mounted devices. Solar Collection Systems are facilities that comply with
11 the requirements of the State’s net metering program under Maryland Code
12 §7-306 and COMAR 20.50.10. A Solar Collection System use does not
13 include a facility that produces more than 2 MW of electricity; such facilities
14 may be allowed as a public utility use under Section 3.6.7.E.

15 **B. Use Standards**

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

18 1. In the Agricultural Reserve zone, [[all of the standards in Subsection
19 3.7.2.B.2.b. and]] the following standards in either Subsection
20 59.3.7.2.B.1.a or 59.3.7.2.B.1.b apply:

21 [a. A Solar Collection System must be an accessory use as defined
22 in Section 3.1.3.]

23 a. **Systems producing 200% or less of on-site energy use**
24 A Solar Collection System is allowed as an accessory use
25 where the system produces up to 200% of annual baseline
26 energy use on-site and must satisfy the following requirements:

- 27 [b][[a]]i. Solar panels may encroach into a setback as
28 allowed under Section 4.1.7.B.5.c and may exceed the
29 maximum height as allowed under Section 4.1.7.C.3.b.
- 30 ii. Written authorization from the local utility company
31 must be provided for a Solar Collection System that will
32 be connected to the utility grid.
- 33 [c][[b]]iii. Removal of trees or landscaping otherwise
34 required or attached as a condition of approval of any
35 plan, application, or permit for the installation or
36 operation of a Solar Collection System is prohibited.
- 37 [d. Solar panels may encroach into a setback as allowed under
38 Section 4.1.7.B.5.c and may exceed the maximum height as
39 allowed under Section 4.1.7.C.3.b.]
- 40 [e. A freestanding Solar Collection System is allowed only as an
41 accessory use where the system produces a maximum of 120%
42 of on-site energy consumption and must satisfy the same
43 development standards as an accessory structure.]
- 44 **b. Systems producing more than 200% of on-site energy use**
45 Except for the screening and fence requirements in Subsection
46 59.3.7.2.B.2.b.iv.C and 59.3.7.2.B.2.b.v.C, a Solar Collection
47 System must satisfy the requirements of Subsection
48 59.3.7.2.B.2 and 59.7.3.4.E.5.
- 49 [[c. Except as allowed under Subsection 59.7.3.4.E.5.b, the site
50 must be designated pollinator-friendly under the Maryland
51 Pollinator-Friendly Designation Program.]]
- 52 [[d. Cumulatively, on all AR zoned land, a maximum of 1,800 acres
53 of land may be covered by solar panels.]]

54 2. In Rural Residential, Residential, Commercial/Residential,
55 Employment, and Industrial zones, where a Solar Collection System is
56 allowed as a limited use, [it must either satisfy Subsection
57 59.3.7.2.B.1.a through Subsection 59.3.7.2.B.1.e or] it must satisfy the
58 following standards in either [[subsection a or b]] Subsection
59 59.3.7.2.B.2.a or 59.3.7.2.B.2.b:

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

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

- 63 i. the system produces [[a maximum of]] up to 120% of
- 64 annual baseline on-site energy [[consumption]] use;
- 65 ii. encroachment allowed under Section 4.1.7.B.5.C; and
- 66 iii. a maximum height allowed under 4.1.7.C.3.b.

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

68 The Solar Collection System must satisfy the following
69 standards:

- 70 [a] i. Site plan approval is required under Section 7.3.4.
- 71 [b] ii. The site must be a minimum of 3 acres in size.
- 72 [c] iii. The system may produce a maximum of 2 megawatts
73 (AC).
- 74 [d] iv. All structures must be:
 - 75 [i] A. 20 feet in height or less;
 - 76 [ii] B. located at least 50 feet from any property line; and
 - 77 [iii] C. surrounded by a minimum 6-foot-tall fence.
- 78 [e] v. If a structure for a Solar Collection System is located in
79 an area visible to an abutting residential use or a road:

- 80 [i] A. only solar thermal or photovoltaic panels or
- 81 shingles may be used;
- 82 [ii] B. the panels or shingles must use textured glass or an
- 83 anti-reflective coating; and
- 84 [iii] C. screening that satisfies Section 59.6.5.3.C.8
- 85 (Option A) on the sides of the facility visible from
- 86 the residential use or road is required.
- 87 [f] vi. The Solar Collection System must be removed within 12
- 88 months of the date when the use is discontinued or
- 89 abandoned by the system owner or operator, or upon
- 90 termination of the useful life of the system. The Solar
- 91 Collection System will be presumed to be discontinued
- 92 or abandoned if no electricity is generated by the system
- 93 for a period of 12 continuous months.
- 94 [[[g] vii. If licensed by the Public Service Commission, [A] a
- 95 system designed to produce more than 2 megawatts (AC)
- 96 [may be allowed as a public utility use under Section
- 97 3.6.7.E] is not restricted by Chapter 59.]]

98 * * *

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

100 **Division 7.3. Regulatory Approvals**

101 * * *

102 **Section 7.3.4. Site Plan**

103 * * *

104 **E. Necessary Findings**

105 * * *

106 5. For property zoned AR proposed for use as a Solar Collection system:

- 107 a. the Solar Collection System is not located:
- 108 i. on soils classified by the United States Department of
- 109 Agriculture as Soil Classification Category 1;
- 110 ii. in a stream buffer;
- 111 iii. on wetlands; or
- 112 iv. on slopes equal to or greater than 15%;
- 113 b. topsoil has not and will not be scraped from the site;
- 114 ~~[[a]]~~c. grading and any soil removal will be minimized; [[and]]
- 115 ~~[[b]]~~d. the site must be:
- 116 i. designated pollinator-friendly under the Maryland
- 117 Pollinator-Friendly Designation Program[[, or any land
- 118 on which the solar generation facility is located that is
- 119 not designated as pollinator friendly must be]];
- 120 ii. planted, managed, and maintained in a manner suitable
- 121 for grazing farm animals[[.]]; or
- 122 iii. planted, managed, and maintained for any other
- 123 agrivoltaic plant material;
- 124 e. removing of trees or landscaping otherwise required or attached
- 125 as a condition of approval of any plan, application, or permit for
- 126 the installation or operation of a Solar Collection System is
- 127 prohibited:
- 128 i. the forest conservation requirements of Chapter 22A
- 129 must be satisfied;
- 130 ii. any tree in or on a floodplain, stream buffer, steep slope,
- 131 critical habitat, contiguous forest, or historic site, and any
- 132 champion tree or other exceptionally large tree must be

- 133 left undisturbed unless a disturbance is allowed under
- 134 Section 22A-12(b)(1);
- 135 f. the requirements of Chapter 19, Erosion, Sediment Control and
- 136 Stormwater Management must be satisfied;
- 137 g. except for pad areas for transformers and electrical equipment,
- 138 the use of concrete must be prohibited;
- 139 h. screening that satisfies Section 59.6.5.3.C.8 (Option A) on the
- 140 sides of the facility within 200 feet of any neighboring house is
- 141 required; however, a fence may not be required or prohibited;
- 142 i. written authorization from the local utility company that allows
- 143 the Solar Collection System to be connected to the utility grid
- 144 must be submitted; and
- 145 j. the land area approved, in addition to all other site plan
- 146 approvals, will not exceed 1,800 acres of land.

147 * * *

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

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

155
 156 This is a correct copy of Council action.

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159 Selena Mendy Singleton, Esq.

160 Clerk of the Council