

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**

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

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**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.

157

158     \_\_\_\_\_

159     Selena Mendy Singleton, Esq.



160 Clerk of the Council