

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 including Community Solar Energy
13 Generating Systems, Aggregate Net Metering Systems, and projects limited
14 to a percentage of on-site energy use. A Solar Collection System use does
15 not include a facility rated at more than 2 megawatts (AC) of electricity;
16 such facilities may be allowed as a public utility use under Section 3.6.7.E.

17 **B. Use Standards**

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

20 1. In the Agricultural Reserve zone, the following standards in either
21 Subsection 59.3.7.2.B.1.a or 59.3.7.2.B.1.b apply:

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

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

- 26 i. Solar panels may encroach into a setback as allowed
- 27 under Section 4.1.7.B.5.c and may exceed the maximum
- 28 height as allowed under Section 4.1.7.C.3.b.
- 29 ii. Written authorization from the local utility company
- 30 must be provided for a Solar Collection System that will
- 31 be connected to the utility grid.
- 32 iii. Removal of trees or landscaping otherwise required or
- 33 attached as a condition of approval of any plan,
- 34 application, or permit for the installation or operation of a
- 35 Solar Collection System is prohibited.

36 **b. Systems producing more than 200% of on-site energy use**
 37 Except for the screening and fence requirements in Subsection
 38 59.3.7.2.B.2.b.iv.C and 59.3.7.2.B.2.b.v.C, a Solar Collection
 39 System must satisfy the requirements of Subsection
 40 59.3.7.2.B.2 and 59.7.3.4.E.5.

41 2. In Rural Residential, Residential, Commercial/Residential,
 42 Employment, and Industrial zones, where a Solar Collection System is
 43 allowed as a limited use it must satisfy the following standards in
 44 either Subsection 59.3.7.2.B.2.a or 59.3.7.2.B.2.b:

45 **a. Systems producing 120% or less of on-site energy use**
 46 The Solar Collection System may be an accessory use under the
 47 following standards:

- 48 i. the system produces up to 120% of annual baseline on-
- 49 site energy use;
- 50 ii. encroachment allowed under Section 4.1.7.B.5.C; and
- 51 iii. a maximum height allowed under 4.1.7.C.3.b.

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

53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79

- The Solar Collection System must satisfy the following standards:
- i. Site plan approval is required under Section 7.3.4.
 - ii. The site must be a minimum of 3 acres in size.
 - iii. The system may produce a maximum of 2 megawatts (AC).
 - iv. All structures must be:
 - A. 20 feet in height or less;
 - B. located at least 50 feet from any property line; and
 - C. surrounded by a minimum 6-foot-tall fence.
 - v. If a structure for a Solar Collection System is located in an area visible to an abutting residential use or a road:
 - A. only solar thermal or photovoltaic panels or shingles may be used;
 - B. the panels or shingles must use textured glass or an anti-reflective coating; and
 - C. 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.
 - vi. 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.

* * *

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

81 **Division 7.3. Regulatory Approvals**

82 * * *

83 **Section 7.3.4. Site Plan**

84 * * *

85 **E. Necessary Findings**

86 * * *

- 87 5. For property zoned AR proposed for use as a Solar Collection system:
- 88 a. the Solar Collection System is not located:
- 89 i. on soils classified by the United States Department of
- 90 Agriculture as Soil Classification Category 1;
- 91 ii. in a stream buffer;
- 92 iii. on wetlands; or
- 93 iv. on slopes equal to or greater than 15%;
- 94 b. topsoil has not and will not be scraped from the site;
- 95 c. grading and any soil removal will be minimized;
- 96 d. the area under the solar facility must satisfy one of the
- 97 following requirements:
- 98 i. designated pollinator-friendly under the Maryland
- 99 Pollinator-Friendly Designation Program;
- 100 ii. planted, managed, and maintained in a manner suitable
- 101 for grazing farm animals; or
- 102 iii. planted, managed, and maintained for any other
- 103 agrivoltaic plant material;
- 104 e. removing of trees or landscaping otherwise required or attached
- 105 as a condition of approval of any plan, application, or permit for

106 the installation or operation of a Solar Collection System is
107 prohibited:

- 108 i. the forest conservation requirements of Chapter 22A
- 109 must be satisfied;
- 110 ii. any tree in or on a floodplain, stream buffer, steep slope,
- 111 critical habitat, contiguous forest, or historic site, and any
- 112 champion tree or other exceptionally large tree must be
- 113 left undisturbed unless a disturbance is allowed under
- 114 Section 22A-12(b)(1);
- 115 f. the requirements of Chapter 19, Erosion, Sediment Control and
- 116 Stormwater Management must be satisfied;
- 117 g. except for pad areas for transformers and electrical equipment,
- 118 the use of concrete must be prohibited;
- 119 h. screening that satisfies Section 59.6.5.3.C.8 (Option A) on the
- 120 sides of the facility within 200 feet of any neighboring house is
- 121 required; however, a fence may not be required or prohibited;
- 122 i. written authorization from the local utility company that allows
- 123 the Solar Collection System to be connected to the utility grid
- 124 must be submitted; and
- 125 j. the land area approved, in addition to all other site plan
- 126 approvals, will not exceed 1,800 acres of land.

127 * * *

128 **Sec. 3. Reporting.** On April 1, 2021 and annually thereafter, the Planning
129 Director must report to the County Council the total acreage of Solar Collection
130 System site plans approved by the Planning Board in the Agricultural Reserve
131 since the effective date of ZTA 20-01.

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

134

135 This is a correct copy of Council action.

136

137 _____

138 Selena Mendy Singleton, Esq.
139 Clerk of the Council