

PROPOSED ZTA CONCERNING SOLAR COLLECTION SYSTEMS - STANDARDS






Description

This ZTA would amend the use standards for Solar Collection Systems to streamline certain rooftop solar installations, and acknowledge the 2025 legislative session passing of Senate Bill 931/House Bill 1036, the Renewable Energy Certainty Act.



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ZTA SPONSORS

Request of Planning Staff to the Planning Board

REVIEW BASIS

Chapter 59

Summary

- This ZTA is proposed in response to State legislation, Senate Bill 931/House Bill 1036, that passed in 2025, which limits the ability for counties or municipalities to require regulatory review for Solar Collection Systems deemed eligible for a Distributed Generation Certificate of Public Convenience and Necessity.
- This proposed ZTA would not amend the code sections pertaining to Solar Collection Systems between 2 – 5 megawatts (MW) in the AR zone but acknowledges the State preemption legislation by only applying the standards of Section 3.7.2.B.2. if a project is not otherwise allowed by the State.
- The ZTA proposes amendments to Solar Collection Systems in other Zones, regulating systems up to a maximum of 1 MW of energy, by creating a distinction between ground and rooftop mounted systems and generally reducing the requirements and

standards for rooftop mounted systems.

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SECTION 1 – BACKGROUND

Montgomery Planning Staff is recommending that the Planning Board request the introduction of a ZTA making changes to the use standards associated with Solar Collection Systems. The Solar Collection Systems use standards are located in Section 3.7.2, a subsection of the Miscellaneous Uses Division 3.7. Standards in this section include review process, minimum site size, setbacks, and screening, based on the underlying zone and on-site energy production levels.

State Legislation

In 2025, the Maryland General Assembly passed Senate Bill 931/House Bill 1036, collectively known as the Renewable Energy Certainty Act (Attachment B). The legislation's primary effect was to preempt local jurisdictions from regulating the installation of Solar Collection Systems that generate between 1 and 5 megawatts (MW) of alternating current (AC) electricity. Instead, these facilities will be reviewed by the Public Service Commission (PSC) for compliance with State requirements. For sites generating between 1 – 2 MW of electricity, the legislation created a set of minimum Statewide use standards that include site area plan requirements, landscaping and screening, and land disturbance limitations. Sites generating 2 – 5 MW of electricity will be reviewed as a Distributed Generation Certificate of Public Convenience and Necessity (DGPCN) by the PSC. A DGPCN would authorize the construction and operation of a solar generation facility, subject to certain requirements yet to be determined by the PSC. The Planning Board reviews the projects as a Mandatory Referral and for forest conservation, but as long as the application meets the requirements of the PSC, the application may be issued permits for construction.

The final standards and content for the DGPCN process require further study, with final requirements to be determined on or before July 1, 2026. The Power Plant Research Program is tasked with developing the necessary submittal, site, and design requirements, and a proposed licensing process for issuance of DGPCNs. The program must consider:

- The state's climate and renewable energy commitments
- Reasonable setback and screening requirements
- Environmental preservation, including prohibition on forest clearing unless it is to reduce shading on the panels, facilitate electric interconnection, or ensure site access.
- Stormwater management, erosion, and sediment control, including the effects of runoff from the solar installations, the impacts on soils and soil characteristics, and the effects on groundcover between and under the panels.
- Minimize the impacts on historic sites
- Public safety
- Industry best practices
- Stability and reliability of the electric grid, including receiving a signed interconnection agreement with the local utility

- Decommissioning
- Any other requirements deemed necessary

After the DGPCN process is approved for use by the PSC, the Power Plant Research Program will be responsible for reviewing applications for compliance with the qualifications for a DGPCN. The reviews would include providing the local jurisdiction with a copy of the application and holding a public hearing to comment on the application. If it is determined that a project is eligible for a DGPCN, the application will be sent to the PSC, which will hold another hearing where it must make the findings that the project complies with the requirements of the DGPCN. Local jurisdictions are prohibited from having their own regulatory process for a DGPCN, but are responsible for issuing stormwater, sediment, and erosion control, electric, and building permits for an approved project.

Projects over 5 MW were previously regulated by the PSC, and that is not changed by the State Legislation. The State legislation did include some amendments prohibiting larger facilities from planned growth areas and areas zoned for medium and higher density uses.

Within the legislation around DGPCNs, there is a fallback that limits the total amount of acreage developed with solar within any locally defined Priority Preservation Areas (PPA) to a maximum of 5%. Once a local jurisdiction's PPA exceeds 5% solar cover, the jurisdiction may report this to the PSC and be relieved of the State's preemption legislation related to DGPCNs. PPAs are a state recognized, locally designated area of agricultural protection, enacted in 2006 under the Agricultural Stewardship Act. Local governments established PPAs where they will use land use tools to prioritize the preservation of land and agriculture. Montgomery County has designated the entirety of the AR zone within the Agricultural Reserve as a PPA.

Rationale For The ZTA

The recently passed State legislation now preempts certain County zoning rules for solar facilities. Specifically, the State law overrides Zoning Code Section 3.7.2.B.2., which was established in 2021 by Ordinance 19-14/ZTA 20-01. This section sets limits on Solar Collection Systems in the Agricultural Reserve zone (AR zone), making these projects conditional uses, including a long list of specific use standards, and limiting the total acres of land that can be developed with solar.

These limitations were created through a careful and lengthy process; Planning Staff does not plan to substantially change the existing rules for Solar Collection Facilities in the AR zone at this time. Because of the legislation's fallback provision relieving it of State preemption if a County's PPA reaches 5% solar development, local regulations may once again apply instead of State law. Instead, Planning Staff is directing efforts toward improving the standards for smaller Solar Collection Systems not preempted by the State. This approach supports both State and County goals for expanding solar power, while continuing to protect the County's agricultural communities.

SECTION 2 – PROPOSED ZTA

ZTA Framework

The proposed ZTA (Attachment ##) was prepared by Planning Staff to amend the use standards for Solar Collection Systems under Section 3.7.2. The current use standards are divided into three broad sections: limited use standards for the AR Zone, limited use standards for Rural Residential, Residential, Commercial/Residential, Employment, and Industrial Zones, and conditional use standards for the AR Zone. Those three sections are further broken into use standards that apply to systems producing under 120%/200% of on-site energy usage and those systems producing over 120%/200% of on-site energy usage. The focus of this ZTA is to no longer focus on standards based solely on on-site energy usage, and to instead add a distinction between ground mounted and rooftop mounted Solar Collection Systems. The aim is to provide relief to rooftop mounted systems from certain use standards, such as site plan review, site area, setbacks, and screening. These requirements are best suited for mitigating ground level impacts of larger solar facilities that would not be present from a rooftop mounted system.

SOLAR COLLECTION SYSTEM DEFINED

This proposed ZTA would make updates to the definition of Solar Collection System under Section 3.7.2.A. on lines 13-15. The updated definition adds a statement that it must be allowed to be regulated by the county under Maryland Code §7-207, which is the section amended by the State Legislation that preempts local review of systems generating more than 1 MW of power. This change clearly sets out the limitations of the zoning code at the start of this section and makes it easy for a reader to find what is and isn't allowed based on State code.

The definition is further amended to provide sub-definitions for rooftop and ground mounted systems. Ground mounted systems would be where the solar panel is attached to dedicated support structures whose foundation is on the ground. Rooftop mounted systems have panels attached to mounting brackets that are then attached to the roof of another principal or accessory structure (lines 15-19)

The amended definition would also delete the specific text that a system larger than 2 MW is prohibited in the Agricultural Reserve (AR) zone. The intent is not to change this requirement, this same limitation is repeated again in the section specific to the AR zone, and Planning Staff believes it's cleaner not to include it in the definition section.

LIMITED USE AR ZONE

Currently, Solar Collection Systems are allowed as a limited use in the AR zone under Section 3.7.2.B.1.a., if the system produces no more than 200% of annual on-site energy usage. Any facility exceeding 200% of on-site energy usage is allowed as a conditional use, discussed in more detail later

in this report. The change Planning Staff recommends to this section is to specify that the 200% of on-site energy usage limitation only applies to ground mounted systems. Rooftop mounted systems would be allowed as a limited use exceeding 200% of on-site energy usage, so long as it complies with State code §7-207, which currently would allow up to 1 MW of production (lines 30-32). This adjustment provides an opportunity for residents and farmers in the Agricultural Reserve to potentially produce a modest amount of additional solar energy on the roofs of existing agricultural structures that won't require screening or enhanced setbacks, and also does not impact productive agricultural soils.

LIMITED USE ALL OTHER ZONES

More significant changes are proposed to the use standards for the Rural Residential, Residential, Commercial/Residential, Employment, and Industrial Zones under Section 3.7.2.B.1.b. The current use standards are divided into two sub-sections, one for systems producing 120% or less of on-site energy use, and another for systems producing more than 120% of on-site energy use. Planning Staff recommends modifying the two sub-sections to instead differentiate based on panel mounting location. The first sub-section would be modified to provide standards for ground mounted systems, and the other would be modified for rooftop mounted systems. These changes are discussed in more detail below.

The basis for Planning Staff's recommendation to base use standards on where the panels are mounted is to provide relief to rooftop mounted systems from the existing stringent use standards of systems producing more than 120% of on-site energy usage. These include a required site plan approval, minimum lot size, increased setbacks, and screening and fencing. These enhanced standards are intended to ensure compatibility of solar facilities with surrounding uses, but when mounted on a roof, many of the impacts of the solar facility are inherently mitigated. These additional standards are creating an extra process and expense with no perceived benefit.

Ground Mounted Systems

The first subsection, 3.7.2.B.1 b.i. is being amended to be the use standards for ground mounted solar, rather than for systems producing 120% or less of on-site energy use. Under b.i.(a). (lines 49 -57), ground mounted systems that produce 120% or less of on-site energy use would retain the existing use standards, which permit setback and height encroachments for solar panels.

New section b.i.(b) (lines 58 – 97), ground mounted systems that produce over 120% of on-site energy use would adopt the same standards that currently apply to Solar Collection Systems producing over 120% of on-site energy use. These include requiring a site plan, a minimum of 3 acres, limiting power production to that allowed by the State (currently 1 MW), height limits, enhanced setbacks, fencing, screening, and limiting the type of panels to minimize reflections and glare. To be consistent with the requirements of Solar Collection Systems in the AR zone producing more than 200% of on-site energy

usage, Planning Staff is recommending that a ground mounted system producing over 120% of on-site energy usage will need authorization from the local utility allowing connection to the grid.

Rooftop Mounted Systems

The second subsection, b.ii. (lines 98 – 132) is edited to become the rooftop mounted Solar Collection System section. The only applicable use standards would be receiving authorization from a local utility if producing more than 120% of on-site energy usage, limiting on-site energy production to levels allowed by the State (currently 1 MW). Rooftop mounted solar would no longer be subject to the existing requirements of site plan, minimum lot size, enhanced setbacks, landscaping, and screening.

CONDITIONAL USE AR ZONE

The final use standard section within Solar Collection System is under 3.7.2.B.2, which provides provisions for providing Solar Collection Systems as a conditional use in the AR zone. This section was added in 2021 as part of an extensive discussion on the role that solar installations in the AR zone should play in meeting the County’s environmental and energy goals. The process and standards established have been preempted by the state legislation allowing solar facilities between 1 – 5 MW to be reviewed by the PSC either as an allowed use or through a DGPCPN.

As mentioned before, there is a provision in the State legislation that allows a local jurisdiction to resume authority over solar facilities within their PPAs once solar installation reaches 5% within a given area. While 5% of Montgomery County’s approximately 93,000-acre PPA is 4,650 acres, exceeding the current limit of 1,800 acres of solar in the AR zone, Planning Staff recommends generally retaining the local solar use standards as they are. The only proposed changes are to acknowledge State preemption through reference to the State Code, and to be consistent with applying these regulations only to ground mounted systems.

To acknowledge the preemption, the ZTA adds a statement at the beginning of the section stating “Except as allowed by the State of Maryland Code §7-207 ” (line 133) as an acknowledgement of the current preemption, and a reminder to users of the Zoning Code that this section may not currently be applicable. To only have the conditional use section applied to ground mounted systems, that text is added on line 135. The previously discussed amendments to the limited use standards for Solar Collection System in the AR zone no longer have a generation limit on rooftop solar.

Except as allowed by the State of Maryland Code §7-207, a [A] Solar Collection System may be allowed as a Conditional Use in the AR zone if it is a ground mounted Solar Collection [exceeds a] facility rated at more than 200% of on-site energy use, and is less than 2 megawatts (AC). Where a Solar Collection System is allowed as a conditional use in the AR zone, it may be permitted by the Hearing Examiner under Section 7.3.1. Conditional Use and the following standards:

SECTION 3 – CONCLUSION

Planning Staff recommends the Planning Board support this proposed ZTA, modifying the use standards for Solar Collection Systems, and sending the ZTA to the District Council requesting introduction. This ZTA would modify the use standards for Solar Collection Systems to make it easier to install rooftop mounted solar across the entire County and acknowledges the recently passed State legislation preempting local control over systems between 1 and 5 MW of AC power generation.

SECTION 4 – ATTACHMENTS

Attachment A: Draft Zoning Text Amendment 26-xx

Attachment B: State Legislation Senate Bill 931