

ORDINANCE NO. ORD-2011-21

**AN ORDINANCE TO AMEND CERTAIN PROVISIONS TO THE
ZONING ORDINANCE FOR WASHINGTON COUNTY, MARYLAND
AND TO REENACT SAID ORDINANCE WITH CHANGES RELATING
TO ITS TEXT**
(RZ-11-003)

RECITALS

The Board of County Commissioners of Washington County, Maryland (the "Board") adopted the Zoning Ordinance for Washington County, Maryland (the "Ordinance") on January 23, 1973, and it became effective on April 2, 1973.

The Board of County Commissioners of Washington County, Maryland filed an application requesting that amendments be made to the text of the Ordinance. The amendments proposed relate to the addition of Section 4.26, *Solar Energy Generating Systems (SEGS)*, and amendments to various other sections supporting SEGS implementation.

The Board believes it to be in the best interests of the citizens of Washington County for the amendments to be enacted.

The Washington County Planning Commission (the "Planning Commission") held a public meeting for the purpose of taking comments on the proposed amendments on August 1, 2011 pursuant to public notice duly given.

The Board held a public hearing for the purpose of taking testimony on the proposed amendments on October 4, 2011, pursuant to notice duly given.

Following the hearings, the Board considered the recommendations of the Planning Commission and the Planning Department staff, and materials received, if any, as part of the public hearings. The Board conducted this review in a public session.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED that certain provisions of the Zoning Ordinance, as amended, be further amended as follows:

RZ-11-003

- (1) **ARTICLE 3 - DISTRICTS ESTABLISHED; ZONING MAPS, DISTRICT BOUNDARIES; LAND USE REGULATIONS (RURAL AREA USES), Section 3.3, Table of Land Use Regulations, Table No. 3.3(1) is amended by adding language to Section R., Utilities, and shall read as follows:**

R. Utilities	A(R)	EC	P	RV	RB	IM	Intensity of Use
Commercial Communications Towers, subject to the requirements of Section 4.22	SE	SE	SE	N	N	N	N/A
Public Utility buildings, structures, or uses including radio, television, and other communication facilities not considered Essential Utility Equipment, as defined in Article 28A	SE	SE	SE	SE	P	N	LOW
Solar Energy Generating Systems, in accordance with Section 4.26	SE	SE	SE	N	N	SE	LOW

- (2) **ARTICLE 4 - GENERAL PROVISIONS, is amended to add Section 4.26 (Solar Energy Generating Systems) and shall read as follows:**

Section 4.26 Solar Energy Generating Systems

The purpose of this section is to establish regulations to facilitate the installation and construction of Solar Energy Generating Systems as defined in Section 28A (hereinafter "SEGS") for landowners, subject to reasonable restrictions which will preserve the public health and safety.

SEGS shall be permitted as a land use as specified in Sections 3.3 and 21.32 of this ordinance. However, SEGS shall be prohibited as a use in defined Priority Preservation Areas, Rural Legacy Areas, and Antietam Overlay zones.

A. Design Standards

The following standards shall apply to the development of Solar Energy Generating Systems:

1. A property owner who has installed or intends to install a solar energy generation system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the Clerk of the Court. A property owner who fails to secure an easement for the receipt of solar energy acts at his own peril and has no recourse against the person allowing or causing the obstruction of the owner's receipt of solar energy. Other property owners in the vicinity may obstruct solar energy collection systems unless a valid easement has been secured.
2. Solar Energy Generating Systems shall adhere to the setback, height, and coverage requirements of the district in which they are located. All above ground facilities associated with such generating system (excluding perimeter security fencing) shall be considered a structure for the purposes of determining required setbacks.
3. Minimum Lot Size. No such generating system shall be erected on any lot less than twenty acres in size.

4. **Buffer Yards.** The area designated as a buffer yard may include any required side, rear, or front yards. A 25 foot wide buffer yard shall be required where the adjoining lot is either zoned for or contains dwellings, hospitals, nursing homes, schools, or other institutions for human care. The buffer area shall be measured between the lot line and any area of the lot proposed for use or development and shall be screened with vegetative plantings. The plantings shall be spaced so as to create an opaque screen between the adjoining land uses at a height of no less than 10 feet at maturity. The Planning Commission may waive and/or modify this requirement if the strict application of the provisions of this section reduces the usable area of a lot due to lot configuration or size to a point which would preclude a reasonable use of the lot.
5. **Access.** All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the solar energy generating system and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
6. **Electrical Wires.** All electrical wires associated with a Solar Energy Generating System, other than wires necessary to connect the solar generator to the off site distribution system, the wiring to the disconnect junction box, and the grounding wires shall be located underground.
7. **Lighting.** All structure mounted and parking lot lighting shall be constructed so that light and glare are diffused toward the ground.
8. **Appearance, Color and Finish -** The solar energy collection structures shall remain painted or finished the color of finish that was originally applied by the manufacturer.
9. **Signs.** Signage shall comply with Article 22 Division II of this Ordinance. In addition, warning signage shall be placed on electrical equipment and generating system entrances. All sites shall be identified by means of a sign no larger than two (2) square feet in size affixed to the fence identifying the entity using the site and shall provide the telephone number of a contact person in the event of an emergency.
10. **Noise.** Audible sound due to Solar Energy Generating System operations shall not exceed fifty-five (55) dBA for any period of time, when measured from the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate. The level however may be exceeded during short-term events such as utility outages and/or severe windstorms.
11. **Electromagnetic Interference.** The system shall be operated so that no disruptive electromagnetic interference is caused to off-site telecommunications, surveillance or other similar systems. If it has been demonstrated that a system is causing such disruptive interference, the system owner shall promptly eliminate the disruptive interference or cease operation of the system.
12. **Code Compliance.** A Solar Energy Generating System and all of its components shall comply with all applicable construction and electrical codes.
13. **Utility notification and interconnection.** Solar Energy Generating Systems that connect to the electric utility shall comply with applicable Public Service Commission regulations.
14. **Public Service Commission.** In accordance with the Maryland Annotated Code, Public Utilities Companies, Section 7-207.1, any property owner seeking to construct a Solar Energy Generating System and connect such system to the main power grid with the capability of transporting energy back to their main power company shall apply to the Public Service Commission (PSC) for approval and

provide documentation of such approval to Washington County prior to construction and issuance of a building permit.

15. Violations. It is unlawful for any person to construct, install, or operate a Solar Energy Generating System that is not in compliance with this section or with any condition contained in a building permit issued pursuant to this section.
16. Life of the project and final reclamation. As part of the site plan approval, a description of the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project shall be required. This will include evidence of an agreement with the property owner that ensures proper final removal of power generating equipment.

B. Design Standards in Airport Zones

For the purpose of this section an Airport Zone shall mean all Euclidean and overlay districts outlined in Article 21 of this Ordinance.

Anyone planning to establish a SEGS within any Airport district should refer to the Federal Aviation Administration (FAA) guidance document FAA-ARP-TR-10-1 – *Technical Guidance for Evaluating Selected Solar Technologies on Airports*. In addition, the following design standards shall apply to installation of SEGS in any Airport Zone:

1. Solar collection devices shall be limited to photovoltaic devices only. Concentrated solar power systems are prohibited due to potential reflectivity, electromagnetic interference, and thermal plume hazards.
2. All SEGS projects located within airport zones shall be subject to review by the FAA.

- (3) ARTICLE 13 "IR" INDUSTRIAL, RESTRICTED DISTRICT, Section 13.2 Special Exception Uses (Requiring Board Authorization After Public Hearing), is amended to add language to Section (a) and shall read as follows:**

Section 13.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

- (a) The following uses when the location of such use shall have been authorized by the Board, provided such use shall be subject to three (3) times the distance requirements of Section 4.9.**

Concrete and ceramic products manufacture, including ready-mixed concrete plants.

Contractor's equipment and storage yards.

Above ground petroleum products storage tanks for bulk storage for distribution or refining, provided that all state and federal laws, as well as National Fire Underwriters Codes are complied with.

Sawmills.

Solar Energy Generating Systems in accordance with Section 4.26.

- (4) ARTICLE 14 "IG" INDUSTRIAL, GENERAL DISTRICT, Special Exception Uses (Requiring Board Authorization After Public Hearing), is amended to add language to Section (a) and shall read as follows:

Section 14.2 Special Exceptions (Requiring Board Authorization After Public Hearing)

- (a) The following uses, when the location of such use shall have been authorized by the Board, provided such use shall not be less than one thousand (1,000) feet from any Residential District.

Abattoirs, slaughterhouses, stockyards.

Acid or heavy chemical manufacture, processing or storage.

Blast furnace or boiler works.

Bituminous concrete mixing plants.

Cement, lime, gypsum or plaster of Paris manufacturing.

Distillation of bones, fat rendering, grease, lard, or tallow manufacturing or processing.

Explosive manufacture or storage.

Foundries and/or casting facilities.

Garbage, offal, or dead animal reduction.

Gas manufacture or storage for heat or illumination.

Junk yards as defined in Article 28A.

Above ground petroleum products storage tanks for bulk storage for distribution or refining, provided that all state and federal laws, as well as National Fire Underwriters Codes are complied with.

Solar Energy Generating Systems in accordance with Section 4.26.

- (5) ARTICLE 18 "PI" PLANNED INDUSTRIAL DISTRICT (INDUSTRIAL PARK), is amended as follows:

Section 18.2 is amended by adding language to Section (h) and shall read as follows:

Section 18.2 Prohibited Uses

The following uses are prohibited in an industrial park:

- (a) Any new dwelling, mobile homes, mobile home parks or institutions for human care, and uses first allowed in a business district, except as permitted in Section 18.1(b).

- (b) Brick yards, manufacture of pottery, tile, terra cotta, clay products.
- (c) Electric or steam generating plants.
- (d) Flour mill, grain or feed drying processing.
- (e) Planned business (Regional Shopping Center).
- (f) Sawmills.
- (g) Signs, except as authorized herein.
- (h) Special exception uses in "IR" and "IG" Districts, with the exception of Solar Energy Generating Systems in accordance with Section 4.26.

Section 18.10 is added and shall read as follows:

Section 18.10 Special Exception Uses

- (a) Solar Energy Generating Systems in accordance with Section 4.26.
- (6) ARTICLE 21 "AP" AIRPORT DISTRICT, Section 21.32, Special Exceptions (Requiring Board Authorization After Public Hearing) is amended to add Section (f) and shall read as follows:

Section 21.32 Special Exceptions (Requiring Board Authorization After Public Hearing)

- (a) Any other use that the Board finds is functionally similar to any principal permitted use listed in this Article. The Board shall not grant any special exception which is inconsistent with the purpose set forth for this District, nor which will materially or adversely affect the use of any adjacent or neighboring properties.
- (b) In its consideration of special exception uses in the AP District, the Board shall receive written input from the Airport Manager, his appointed representative, or other Airport Managing Authority with regard to the appropriateness of locating the requested use adjacent to the airport.
- (c) Under no circumstances shall the Board grant a variance from the height restrictions of the AP/C Zone described in Section 21.2.
- (d) Public utility buildings, structures or uses not considered essential utility equipment, as defined in Article 28A.
- (e) Commercial Communications Towers, subject to the standards recommended by the Federal Aviation Administration and the requirements of Section 4.22.
- (f) Solar Energy Generating Systems in accordance with Section 4.26.

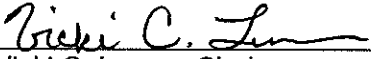
(7) SECTION 28A, DEFINITIONS, is amended to add the following definition.


Solar Energy Generating System (SEGS): A grid-tie solar facility consisting of multiple solar arrays whose primary purpose is to generate electricity for distribution and/or sale into the public utility grid and not for onsite consumption.

Adopted this 4th day of October, 2011.
Effective October 15, 2011

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND


Vicki C. Lumm, Clerk


Terry L. Baker, President

Approved as to legal
sufficiency:


Kirk C. Downey
Assistant County Attorney

Mail to:
Office of the County Attorney
100 W. Washington St., Rm. 202
Hagerstown, MD 21740