

ORDINANCE No. 2021- 04

AN ORDINANCE ADOPTING AMENDMENTS TO THE CODE OF PUBLIC LOCAL LAWS AND ORDINANCES OF CARROLL COUNTY, MARYLAND

WHEREAS, The Board of Commissioners of Carroll County, Maryland (“the Board”), has enacted and codified the "Code of Public Local Laws and Ordinances of Carroll County, Maryland";

WHEREAS, the Board is charged under State law with the duty and responsibility for establishing comprehensive policies and programs to promote the health, safety, and general welfare of the inhabitants of the County and accordingly deems the subject amendment necessary to accomplish these duties and responsibilities; and

WHEREAS, the Carroll County Planning and Zoning Commission reviewed the amendments at its meetings on January 19, February 3, February 16, March 3, and March 16, 2021, and recommended to the Board to adopt the amendments.

NOW, THEREFORE, BE IT ENACTED by the Board of County Commissioners of Carroll County, Maryland:

ARTICLE I. AMENDMENTS.

Section 1. The Code of Public Local Laws and Ordinances of Carroll County, Title XV, Land Use, Chapter 158, Zoning Regulations, § 158.002, Definitions, the definitions of “Solar Energy Conversion Facility” and “Solar Energy Conversion Facility, Accessory” are deleted in their entirety.

Section 2. The Code of Public Local Laws and Ordinances of Carroll County, Title XV, Land Use, Chapter 158, Zoning Regulations, § 158.002, Definitions, the definitions of “Meter Aggregation”; “Solar Energy Generating System, Accessory”; “Solar Energy Generating System, Community”; and “Solar Energy Generating System, Large-Scale” are all added, alphabetically, as follows:

§ 158.002 DEFINITIONS.

...

METER AGGREGATION. Meter aggregation is a net energy metering method defined under COMAR 20.50.10.07 and subject to the general net metering requirements under COMAR 20.50.10 as of July 1, 2020. This may also be referred to as Aggregate Net Energy Metering, or “ANEM.”

...

SOLAR ENERGY GENERATING SYSTEM, ACCESSORY. A solar collection system consisting of one or more roof- and/or ground-mounted solar collection devices and associated supporting equipment that is primarily intended to reduce on-site consumption of utility power by

generating electricity solely for the use and/or benefit of the individual property owner upon whose property the device is situated. A system is considered an “accessory” facility only if it supplies power strictly for on-site use, except that when a property upon which the facility is situated also receives electrical power supplied by a utility company, incidental excess power generated, and not immediately utilized for on-site use, may be provided to the utility company in exchange for a credit.

SOLAR ENERGY GENERATING SYSTEM, COMMUNITY. A community solar energy generating system, or “CSEGS,” shall have the definition given in the Maryland Annotated Code, Public Utilities Article, § 7-306.2 as of July 1, 2020.

SOLAR ENERGY GENERATING SYSTEM, LARGE-SCALE. An area arranged and dedicated to the construction, operation and maintenance of a large-scale solar collection system principally used to capture solar energy and convert it to electrical energy. **SOLAR ENERGY GENERATING SYSTEM, LARGE-SCALE** consist of free-standing ground based or roof-mounted collection devices, associated panels and arrays and/or aggregations of panels and arrays, supporting equipment, including light reflectors, concentrators, heat exchangers, substations, utility interconnection infrastructure, electric infrastructure, transmission lines, battery banks and related structures and facilities. In such instances, the use is considered the “principal” use on the subject property and any other use on the site shall be subordinate. **SOLAR ENERGY GENERATING SYSTEM, LARGE-SCALE** are designed to supply power at the utility level, rather than on-site or to a local user. These facilities are intended to generate electricity to be sold, for profit, to an electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution.

...

Section 3. The Code of Public Local Laws and Ordinances of Carroll County, Title XV, Land Use, Chapter 158, Zoning Regulations, § 158.070, A Agricultural District, § 158.070(D)(13) and (14) are deleted in their entirety and replaced, and § 158.070(D)(15) and (16) are added, all as follows:

...

§ 158.070 A AGRICULTURAL DISTRICT.

...

(D) Principal permitted uses. Principal permitted uses shall be as follows:

...

(13) Conversion of buildings existing prior to August 17, 1965, to accommodate not more than two families, provided that any such use shall have a minimum lot area of one acre;

(14) Mineral resource recovery operations in any areas shown and designated as within a MRO on the Zoning Maps of the county as from time to time adopted or amended, subject to the requirements of § 158.096 and as defined by § 158.002 and subject to the limitations and requirements of this chapter;

(15) Community Solar Energy Generating Systems (CSEGS), subject to the requirements, conditions, and limitations in § 158.153; and

(16) Aggregate Net Energy Metered Solar Energy Generating Systems, subject to the requirements, conditions, and limitations in § 158.153.

...

Section 4. The Code of Public Local Laws and Ordinances of Carroll County, Title XV, Land Use, Chapter 158, Zoning Regulations, § 158.153, the title of this section is changed from “Solar Energy Conversion Facilities” to “Solar Energy Generating Systems”, and § 158.153 is repealed in its entirety and replaced as follows:

§ 158.153 SOLAR ENERGY GENERATING SYSTEMS.

(A) **Purpose.** The intent of this section is to provide for the safe, effective and efficient utilization of solar energy systems while protecting the rights, health, safety and welfare of adjoining land uses and landowners through appropriate zoning and land use controls.

(B) **Solar energy generating systems, accessory.**

(1) This use shall be permitted in all districts.

(2) **Size limits.**

(a) In the R and C Districts, the physical size of the system shall be limited to the size of the roof, or roofs of structures, situated on the subject property, when roof-mounted. Ground-mounted systems shall be no larger than the square footage of solar panel surface area allowed based on the size of the lot as shown below. In the event that a combination of roof-mounted and ground-mounted systems is utilized, the total solar panel surface area cannot exceed the aggregate square footage of the roof areas on the property on which the system is installed. No variance or waiver to the size or setback requirements of the ground-mounted system is allowed in the Residential Districts. A variance may be requested under § 158.130(F)(2)(f) for lots more than three acres in size in the C District; documentation from a North American Board of Certified Energy Practitioners (NABCEP) certified professional solar panel installer must be included to demonstrate that the total size allowable is inadequate to power 100% of the home and accessory structures based on the previous 12 months of usage and identify the additional size and number of panels needed to meet 100% of the expected energy use. Wall-mounted systems are not permitted.

<i>Lot Size</i>	<i>Solar Panel Surface Area Maximum Square Footage for Ground-Mounted Systems</i>
Less than or equal to one-half acre	120 square feet
More than one-half acre to one acre	240 square feet
More than one acre to 3 acres	480 square feet
More than 3 acres	Aggregate square footage of the roof, or roofs of structures, situated on the subject property

(b) In the A District, the physical size of the system shall be limited to the size of the roof, or roofs of structures, situated on the subject property, when roof-mounted, or no larger than the aggregation of the roof area of all permitted structures on site, when ground-mounted. In the event that a combination of roof-mounted and ground-mounted systems is utilized, the total area cannot exceed the aggregate square footage of the roof areas on the property on which the system is installed. No variance to the size of ground-mounted systems is allowed in the Agricultural District.

(c) In the Commercial, Employment Campus, and Industrial Districts, the physical size of the system shall be limited to the size of the roof, or roofs, of structures situated on the subject property, when roof-mounted, or in the C-2 and C-3 Districts, no larger than the aggregate of the roof area of all permitted structures on site, when ground-mounted. Ground-mounted systems up to 120 square feet may be authorized in the C-1 District. No variance or waiver to the size of ground-mounted systems is allowed.

(3) **Setbacks.** Ground-mounted facilities shall satisfy the minimum side, front, and rear yard setback requirements for the district in which the use is situated. There shall be no variance to the front yard setback.

(4) **Height limits.** No portion of the system shall extend more than ten feet from the highest portion of the principal structure to which it is attached. The total height of the building, including all portions of the solar facility, shall comply with the height regulations as set forth in the bulk requirements for the individual district in which the use is proposed. Ground-mounted systems may not exceed a total height of ten feet above existing grade.

(5) **Miscellaneous provisions.**

(a) **Electrical connections.**

1. If interconnected to the local utility grid, a copy of the conditional approval from the local utility must be provided prior to, or at the time of, permit application.

2. All systems must meet all applicable construction and electrical codes.

3. Systems that connect to the electric utility power grid shall comply with all utility notification requirements.

4. A copy of the signed certificate of completion from the utility company shall be provided prior to occupancy permit issuance.

5. When batteries are included, they must be placed in a secure container or enclosure per manufacturer's specifications; screened from view.

(b) **Appearance.**

1. Color must remain as it was originally provided by the manufacturer or match the exterior of the principal structure.

2. No signs other than the manufacturer's, or installer's identification, appropriate warning signs; and not more than two manufacturers' signs may be on the system.

3. Glare must be mitigated away from an adjoining property or adjacent road, which shall be certified by the solar installer prior to installation.

4. The system cannot unreasonably interfere with the view of, or from, a site of significant public interest (scenic road, historic resources, and the like).

5. Ground-mounted systems may not be affixed to a block wall or a fence.

6. Roof-mounted systems shall be installed in such a manner that there is no change in relief or projection.

(C) Solar energy generating systems, in Commercial and Employment Campus Districts.

(1) Solar energy conversion facilities shall be permitted in the C-1 and Employment Campus Districts when roof-mounted. No ground-mounted systems shall be permitted in the C-1 or Employment Campus Districts. Solar energy conversion facilities mounted on parking canopies are considered roof-mounted systems.

(2) Solar energy conversion facilities shall be permitted in the C-2 District when roof-mounted. Ground-mounted systems are permitted by conditional use in the C-2 District.

(3) Solar energy conversion facilities shall be permitted by right in the C-3 District whether roof-mounted or ground-mounted.

(4) Size limits.

(a) In the C-1 and Employment Campus Districts, the physical size of the system shall be limited to the size of the roof.

(b) There shall be no size limit for systems in the C-2 and C-3 Districts.

(5) Setbacks.

(a) Setbacks shall be 400 feet from the boundaries of all adjoining residentially zoned properties, and 200 feet from the boundary lines of adjoining nonresidential zoned properties.

(b) The Planning Commission may reduce required setback for any yard setback by up to 50% provided that supplemental landscaping, as may be determined by the Planning Commission, is provided.

(6) **Height limits.** No portion of the system shall extend more than ten feet from the highest portion of the principal structure to which it is attached. The total height of the building, including all portions of the solar facility, shall comply with the height regulations as set forth in

the bulk requirements for the individual district in which the use is proposed. Ground-mounted system may not exceed a total height of 25 feet above existing grade.

(7) Miscellaneous provisions.

(a) Electrical connections.

1. Prior to interconnection with the local utility grid, a copy of the conditional approval from the local utility must be provided prior to or at the time of permit application.

2. All systems must meet all applicable construction and electrical codes.

3. All systems shall comply with all utility notification requirements.

4. A copy of the signed certificate of completion from the utility company shall be provided prior to occupancy permit issuance.

5. When batteries are included, they must be placed in a secure container or enclosure per manufacturer's specifications; screened from view.

(b) Appearance.

1. Color must remain as it was originally provided by the manufacturer or match the exterior of the principal structure.

2. No signs other than the manufacturer's, or installer's identification, appropriate warning signs; and not more than two manufacturers' signs may be on the system.

3. Glare must be mitigated away from an adjoining property or adjacent road when it creates a nuisance or hazard.

4. The system cannot unreasonably interfere with the view of, or from, a site of significant public interest (scenic road, historic resources, and the like).

5. Ground-mounted systems may not be affixed to a block wall or a fence.

6. Roof-mounted systems shall be installed in such a manner that there is no change in relief or projection.

(D) Solar energy generating systems, in industrial zones.

(1) Solar energy conversion facilities shall be permitted in the I-2 and I-1 Districts whether roof-mounted or ground-mounted.

(2) Size limits.

(a) When roof-mounted, the physical size of the system shall be limited to the

size of the roof.

(b) There shall be no size limit for ground-mounted systems.

(3) Setbacks.

(a) Setbacks shall be 200 feet from the boundaries of all adjoining residentially zoned properties, and 100 feet from the boundary lines of adjoining nonresidentially zoned properties.

(b) The Planning Commission may reduce required setback for any yard setback by up to 50% provided that supplemental landscaping, as may be determined by the Planning Commission, is provided.

(4) **Height limits.** No portion of the system shall extend more than 25 feet from the highest portion of the principal structure to which it is attached. The total height of the building, including all portions of the solar facility, shall comply with the height regulations as set forth in the bulk requirements for the individual district in which the use is proposed. Ground-mounted system may not exceed a total height of 25 feet above existing grade.

(5) Miscellaneous provisions.

(a) Electrical connections.

1. Prior to interconnection with the local utility grid, a copy of the conditional approval from the local utility must be provided prior to or at the time of permit application.

2. All systems must meet all applicable construction and electrical codes.

3. All systems shall comply with all utility notification requirements.

4. A copy of the signed certificate of completion from the utility company shall be provided prior to occupancy permit issuance.

5. When batteries are included, they must be placed in a secure container or enclosure per manufacturer's specifications; screened from view.

(b) Appearance.

1. Color must remain as it was originally provided by the manufacturer or match the exterior of the principal structure.

2. No signs other than the manufacturer's, or installer's identification, appropriate warning signs; and not more than two manufacturers' signs may be on the system.

3. Ground-mounted systems may not be affixed to a block wall or a fence.

4. Roof-mounted systems shall be installed in such a manner that there is no change in relief or projection.

(E) **Community solar energy generating systems (CSEGS), in Agricultural zones.** CSEGS in Agricultural Zones are permitted to use ANEM subject to the requirements of COMAR 20.50.10.07 and the Public Utilities Article § 7-306(4).

(1) CSEGSs shall be permitted in the A District, subject to the following requirements, conditions, and limitations, and subject to site plan review and approval by the Planning Commission:

(a) The primary use of the property shall continue to be agricultural in nature and any commercial aspects of this use shall not be used solely to warrant or justify the assignment of future land use designations or rezoning petitions.

(b) A CSEGS shall be located only on an existing remaining portion of 5 acres or greater in size as of July 1, 2020. There shall be no variance to this provision.

(c) A CSEGS and all associated infrastructure shall be limited to a maximum of 20 acres on any remaining portion. There shall be no variance to this provision.

(d) Upon installation of the CSEGS, a permanent easement shall be granted to the County on the portion of the remaining portion not set aside for solar development, where the acreage of land not set aside for solar development is 5 acres or greater.

(e) Site plan approval by the Planning and Zoning Commission is required. If a proposed CSEGS less than 2 megawatts can accommodate expansion of the CSEGS in the future, subject to (c) of this section, an area of the remaining portion may be designated for future expansion. The area set aside for expansion must be shown on the site plan. The combined, total capacity of the CSEGS shall not exceed 2 megawatts.

(f) No topsoil or productive agricultural land, consistent with §150.02(C)(1)(b)1, shall be removed from the site for installation of the facility. All soils retained should be reused in the landscaping plan for the site.

(g) **Environmental Resources.** No forested areas, as defined in §150.20, shall be removed from the site for installation of the facility. No portion of the facility shall be located within or impede upon a stream buffer, floodplain, or wetland. There shall be no variance to this provision.

(h) **Agricultural Co-Location.** The site must be designated and maintained as pollinator friendly under Maryland's Solar Generation Facilities Pollinator-Friendly Designation program, as defined by the Natural Resources Article, § 3-303.1, OR any land on which the CSEGS is located that is not designated as pollinator friendly must be planted, managed, and maintained in a manner suitable for grazing of farm animals, apiaries, or crops. The property owner shall be responsible for controlling and suppressing all noxious weeds and invasive plants on the site and to prevent spread to surrounding farmland.

(i) **Landscaped Buffer.** The CSEGS shall include a landscaped buffer to screen the CSEGS from residential uses on contiguous properties and public rights-of-way. A detailed landscaping plan shall be submitted with the site plan, which includes the type of plantings, location, and spacing to result in year-round screening from the time of installation. Part or all of the plantings shall consist of a compact hedgerow and/or native vegetation and/or earth berms. First preference is given to the use of existing or created topography and/or vegetation to reduce visual impacts. The landscaped buffer may be placed within the setback. Any perimeter fencing should be on the side of the landscaping buffer with the solar panels.

(j) **Bulk Requirements.** The entire CSEGS must be setback a minimum of 40 feet from the property line along an adjoining street or from adjoining property lines. There shall be no variance to this provision.

(k) **Height limits.** Ground-mounted systems may not exceed a total height of 15 feet above existing grade. The Planning and Zoning Commission may approve an adjustment to the maximum height if deemed necessary for purposes of the proposed agricultural use, as defined in 158.002. The proposed use and purpose must be submitted as part of the site plan. The Planning Commission may impose conditions on the use if the maximum height is modified.

(l) **Project Infrastructure and Utility Lines.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

(m) **Abandonment and Decommissioning.** A decommissioning plan for ground-mounted systems will be submitted to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after the useful life. The owner or operator shall decommission the solar panels in the event they are not in use for 180 consecutive days. The decommissioning plan shall include provisions for the removal of all structures and foundations and their proper disposal, the removal of all electrical transmission components, the restoration of soil and vegetation, and a soundly based plan ensuring financial resources will be available to fully decommission the site. The County also will require the owner or operator to enter into a public works agreement with the County to ensure proper decommissioning. The public works agreement shall include provision of a satisfactory bond or guaranty to the County Commissioners to ensure compliance with this chapter and the provision of related public improvements, adequate landscaping, screening, site access, or other treatment as required by this chapter. The public works agreement shall be prepared by the County Attorney, and the bond or guaranty shall be satisfactory to the County Commissioners.

(n) The Planning Commission shall not approve a CSGES that involves the taking of property under eminent domain.

ARTICLE II. SEVERABILITY.

Should any provision, section, sentence, clause, or part of this ordinance be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence,

clause, or part of this ordinance, it being the intent of the County Commissioners that such remainder shall be and shall remain in full force and effect.

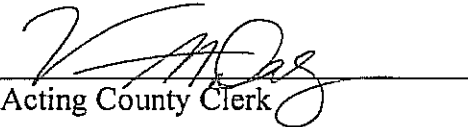
ARTICLE III. EFFECTIVE DATE.

This Ordinance shall become effective on _____, 20__.

ADOPTED this _____ day of _____, 2021.

THE COUNTY COMMISSIONERS OF
CARROLL COUNTY, MARYLAND,
a body corporate and politic
of the State of Maryland

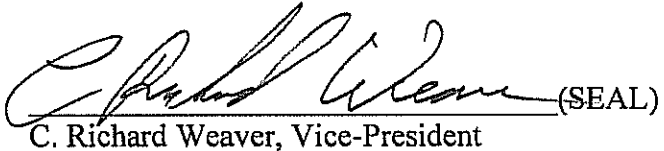
ATTEST:




Acting County Clerk

 (SEAL)

Edward C. Rothstein, President

 (SEAL)

C. Richard Weaver, Vice-President

 (SEAL)

Stephen A. Wantz, Commissioner

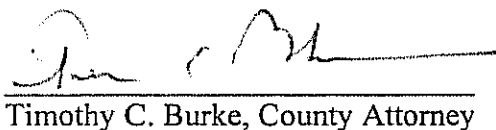
 (SEAL)

C. Eric Bouchat, Commissioner

 (SEAL)

Dennis E. Frazier, Commissioner

Approved for legal sufficiency:



Timothy C. Burke, County Attorney

... denotes existing text before or after where it appears

Notice of Public Hearing published: _____

Public Hearing held: _____

Public Meeting to adopt Ordinance: _____

Notice of Adoption of Ordinance published: _____

Ordinance filed with Clerk of Court: _____

I hereby certify that the actions described above took place on the dates referred to above and that this Ordinance is effective as of the _____ day of _____, 20__.

Timothy C. Burke
County Attorney

12230-0291/ATTORNEY/ORDINANCES(HEARINGS)/CH158(ZONING)\COMMUNITYSOLARENERGY/Ordinance.doc\05/05/21

RETURN RECORDED ORIGINAL ORDINANCE TO:

County Attorney

225 North Center Street, Suite 300

Westminster, Maryland 21157