

Ordinance No.: 17-45
Zoning Text Amendment No.: 14-02
Concerning: Exemptions – Solar
Panels
Draft No. & Date: 2 – 3/6/14
Introduced: January 28, 2014
Public Hearing: February 25, 2014
Adopted: April 22, 2014
Effective: May 12, 2014

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Berliner, Navarro, Rice, Leventhal, and Andrews

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Exempt certain solar energy structures from height and setback

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-B-1. “EXEMPTIONS FROM HEIGHT CONTROLS.”
Section 59-B-1.1. “Belfries, chimneys, etc.”
DIVISION 59-B-3. “EXEMPTIONS FOR PROJECTIONS.”
Section 59-B-3.1. “Steps, terraces, and porches.”

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 that text 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.*

OPINION

Zoning Text Amendment No. 14-02, sponsored by Councilmembers Berliner, Navarro, Rice, Leventhal, and Andrews, was introduced on January 28, 2014. The sponsors believed that the public interest would be served by allowing solar panels to a greater degree than allowed by the current code. To that end, ZTA 14-02 as introduced would exempt solar panels from height limits and would allow solar panels to extend 2 feet into side and rear setbacks.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved with amendments. The Planning Board recommended allowing the same setback as a porch (3 feet) but maintaining a minimum 3 foot side yard setback where a setback has been established.

The County Council held a public hearing on February 25, 2014 to receive testimony concerning the proposed text amendment. The only speaker was Diane Schwartz Jones, representing the County Executive. The testimony suggested that the ZTA may be in conflict with fire safety codes. In particular, codes require an ability to lean a ladder against a roof and for firefighters to have enough space to walk on the roof.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on March 6, 2014 to review the amendment. The Committee recommended approval of ZTA 14-02 with amendments to avoid conflicts with fire safety code requirements and to allow solar panels to the same extent that porches are allowed.

The District Council reviewed Zoning Text Amendment No. 14-02 at a worksession held on April 22, 2014 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 14-02 will be approved as amended.

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-B-1 is amended as follows:**

2 Division 59-B-1. EXEMPTIONS FROM HEIGHT CONTROLS.

3 **Sec. 59-B-1.1. Belfries, chimneys, etc.**

4 The building height limits under this chapter do not apply to belfries, chimneys,
5 cupolas, domes, flagpoles, flues, monuments, television antennae or aerials, spires,
6 tanks, water towers, water tanks, air conditioning units, solar energy panels, or
7 similar roof structures, and mechanical appurtenances, or, if associated with an
8 optional method development project and where recommended in an approved
9 urban renewal plan, rooftop architectural features, except:

10 (a) Where such structures are located within an airport approach area, as
11 designated on the zoning map; or

12 (b) In the case of air conditioning units or similar roof structures and mechanical
13 appurtenances located on buildings in the RT-6.0, RT-8.0, RT-10.0, RT-12.5
14 and R-30 Zones or constructed under the standard method of development
15 procedures in the CBD-0.5, CBD-R, and CBD-1 Zones, this exemption is
16 limited to 8 feet.

17 A roof structure must not have a total area greater than 25 percent of the roof area
18 except that a larger area may be approved for buildings approved by the Planning
19 Board under the optional method of development procedures in the central
20 business district zones. A roof structure must not be used for any purpose other
21 than a use incidental to the main use of the building. Exempt space must not be
22 used for retail, general and professional offices, or similar uses.

23 * * *

24 **Sec. 2. DIVISION 59-B-3 is amended as follows:**

25 Division 59-B-3. EXEMPTIONS FOR PROJECTIONS.

26 **Sec. 59-B-3.1. Steps, terraces, solar panels, and porches.**

27 (a) Open steps and stoops, exterior stairways, terraces, ~~[[and]]~~ porches, and
28 solar panels may extend into any minimum front or rear yard not more than
29 9 feet.

30 (b) For side yards[;]:

31 ~~[(i)]~~ (1) except in the case of a corner lot, open steps, stoops, exterior
32 stairways, terraces, ~~[[and]]~~ porches, and solar panels may extend into
33 any minimum side yard not more than 3 feet;

34 ~~[(ii)]~~ (2) on a corner lot having a minimum side yard 25 feet or more in
35 width, open steps, stoops, exterior stairways, terraces, ~~[[and]]~~ porches,
36 and solar panels may extend into such minimum side yard not more
37 than 9 feet; and

38 ~~[(iii)]~~ (3) on a corner lot having a minimum side yard of less than 25 feet
39 in width, there must be no encroachment on the minimum side yard.

40 (c) Steps, stoops, ~~[[and]]~~ exterior stairways, and terraces that extend into the
41 minimum required yards may be roofed but must not be enclosed. Any roof
42 covering steps, stoops, exterior stairways, and terraces may extend not more
43 than 3 feet into the minimum required yard.

44 (d) Roofed, but not enclosed, porches may extend into the minimum required
45 front or rear yard not more than 9 feet, including the roof. If any portion of a
46 roofed, but not enclosed, porch extends into the required minimum front
47 yard, the porch and its roof may extend not more than 9 feet from the face of
48 the building parallel to the front lot line.

49 ~~[(e)]~~ Solar panels may extend 2 feet into any side or rear setback.]]

50 * * *

51 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
52 date of Council adoption.

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54 This is a correct copy of Council action.

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Linda M. Lauer

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Linda M. Lauer, Clerk of the Council