

**Clerk's Note:** The following clerical changes have been made to the ordinances:  
The subparagraph lettering on lines 241, 245, 247, 251, 257, and 260 has been changed from "f.", "g.", "h.", "i.", "j.", and "k." to "vi.", "vii.", "viii.", "ix.", "x.", and "xi." respectively.  
The term "(Low Impact)" has been bracketed out for removal on lines 278-279.  
The paragraph lettering on line 480 has been changed from "(h)" to "(g)" and on line 483 from "(i)" to "(h)".

**CORRECTED COPY**

Ordinance No.: 20-09  
Zoning Text Amendment No.: 23-11  
Concerning: Regulatory Approvals –  
Conditional Use  
Revised: 2/7/2024 Draft No.: 3  
Introduced: December 12, 2023  
Public Hearing: January 23, 2024  
Adopted: February 13, 2024  
Effective: March 4, 2024

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

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Lead Sponsor: Council President Friedson

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- (1) change certain conditional uses to limited uses;
- (2) remove the application notice requirement for certain parking waivers;
- (3) allow approval of certain landscaping plans under the alternative method of compliance;
- (4) allow the Hearing Examiner to dismiss inactive conditional use applications;
- (5) allow the Hearing Examiner to approve waivers and refunds of filing fees under certain circumstances; and
- (6) generally amend the development procedures for certain regulatory approvals.

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

Division 1.4.	"Defined Terms"
Section 1.4.2.	"Specific Terms and Phrases Defined"
Division 3.1.	"Use Table"
Section 3.1.5.	"Transferable Development Rights"
Section 3.1.6.	"Use Table"
Division 3.2.	"Agricultural Uses"
Section 3.2.4.	"Equestrian Facility"
Division 3.3.	"Residential Uses"
Section 3.3.3.	"Accessory Residential Uses"

Division 3.4.	“Civic and Institutional Uses”
Section 3.4.4.	“Day Care Facility”
Division 3.5.	“Commercial Uses”
Section 3.5.11.	“Retail Sales and Service”
Section 3.5.13.	“Vehicle Service”
Division 6.2.	“Parking, Queuing, and Loading”
Section 6.2.4.	“Parking Requirements”
Section 6.2.10.	“Parking Waiver”
Division 6.3.	“Open Space and Recreation”
Section 6.3.4.	“Rural Open Space”
Division 6.8.	“Alternative Compliance”
Section 6.8.1.	“Alternative Method of Compliance”
Division 7.3.	“Regulatory Approvals”
Section 7.3.1.	“Conditional Use”
Division 7.6.	“Special Provisions”
Section 7.6.5.	“Fees”

**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 59-1.4 is amended as follows:**

2     **Division 1.4. Defined Terms**

3                               \*    \*    \*

4     **Section 1.4.2. Specific Terms and Phrases Defined**

5     In this Chapter, terms that are not specifically defined have their ordinary meaning.

6     The following words and phrases have the meanings indicated.

7                               \*    \*    \*

8     **Day Care Center (13 - 30 Persons):** See Section [3.4.4.E.1] 3.4.4.D.1

9     **Day Care Center (Over 30 Persons):** See Section [3.4.4.F.1] 3.4.4.E.1

10                            \*    \*    \*

11    **[Group Day Care (9 - 12 Persons):** See Section 3.4.4.D.1]

12                            \*    \*    \*

13    **Home Health Practitioner:** See Section 3.3.3.G.1

14    **[Home Health Practitioner (Low Impact):** See Section 3.3.3.G.3.a]

15    **[Home Health Practitioner (Major Impact):** See Section 3.3.3.G.4.a]

16                            \*    \*    \*

17    **Section 3.1.6. Use Table**

18    The following Use Table identifies uses allowed in each zone. Uses may be  
19    modified in Overlay zones under Division 4.9.

20                            \*    \*    \*

21           **Sec. 2. DIVISION 59-3.1 is amended as follows:**

22    **Division 3.1. Use Table**

23                            \*    \*    \*

24    **Section 3.1.5. Transferable Development Rights**

25 A. The following uses are prohibited if the lot or parcel on which the use is  
26 located is in the AR zone and is encumbered by a recorded Transfer of  
27 Development Rights easement:

28 \* \* \*

29 **2. Residential**

- 30 a. Attached Accessory Dwelling Unit
- 31 b. Detached Accessory Dwelling Unit
- 32 c. Residential Care Facility (Up to 8 Persons)
- 33 d. Residential Care Facility (9 - 16 Persons)
- 34 e. Residential Care Facility (Over 16 Persons)
- 35 f. Guest House
- 36 g. Home Health Practitioner [(Low Impact)]
- 37 [h. Home Health Practitioner (Major Impact)]
- 38 [i]h. Home Occupation (Low Impact)
- 39 [j]i. Home Occupation (Major Impact)

40 **3. Civic and Institutional**

- 41 a. Charitable, Philanthropic Institution
- 42 [b. Group Day Care (9 - 12 Persons)]
- 43 [c]b. Day Care Center (13 - 30 Persons)
- 44 [d]c. Day Care Center (Over 30 Persons)
- 45 [e]d. Private Club, Service Organization
- 46 [f]e. Religious Assembly

47 \* \* \*

48 **Section 3.1.6. Use Table**

49 The following Use Table identifies uses allowed in each zone. Uses may be  
50 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definition s and Standards	Ag	Rural Residential			Residential												Commercial / Residential			Employment				Industrial				
						Residential Detached								Residential Townhouse			Residential Multi-Unit												
						AR	R	RC	RNC	RE- 2	RE- 2C	RE-1	R- 200	R-90	R-60	R- 40	TLD											TMD	THD
<b>AGRICULTURAL</b>																													
* * *																													
Equestrian Facility	3.2.4	L/C	L/C	L/C	L/C	[C] L/C	[C] L/C	[C] L/C	[C] L/C																				
* * *																													
<b>RESIDENTIAL</b>																													
* * *																													
ACCESSORY RESIDENTIAL USES	3.3.3																												
* * *																													
Home Health Practitioner	3.3.3.G	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	
[Home Health Practitioner (Low Impact)]	[3.3.3.G]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	
[Home Health Practitioner (Major Impact)]	[3.3.3.G]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	
* * *																													
Home Occupation (Major Impact)	3.3.3.H	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
* * *																													
<b>CIVIC AND INSTITUTIONAL</b>																													
* * *																													
DAY CARE FACILITY	3.4.4																												
Family Day Care (Up to [8] <u>12</u> Persons)	3.4.4.C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

USE OR USE GROUP	Definition s and Standards	Ag	Rural Residential			Residential												Commercial / Residential			Employment				Industrial				
						Residential Detached								Residential Townhouse			Residential Multi-Unit												
						AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD											TMD	THD
[Group Day Care (9 -12 Persons)]	[3.4.4.D]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[L]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[C]	[P]	[P]	[P]	[P]	[P]	[P]	[P]	[P]	[P]	[P]	
Day Care Center (13 - 30 Persons)	[3.4.4.E] 3.4.4.D	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	
Day Care Center (Over 30 Persons)	[3.4.4.F] 3.4.4.E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	L	L	P	P	P	P	P	P	P	P	
* * *																													
COMMERCIAL																													
* * *																													
RETAIL SALES AND SERVICE	3.5.11																												
* * *																													
Retail/Service Establishment (85,001[-120,000] SF and Over)	3.5.11.B																		L	L	L	L				L	L	L	
[Retail/Service Establishment (120,001 SF and Over)]	[3.5.11.B]																		[L]	[L]	[C]	[C]				[L]	[L]	[L]	
* * *																													
Rural Country Market	3.5.11.D	[C] L/C	[C] L/C	[C] L/C	[C] L/C	[C] L/C	[C] L/C	[C] L/C	[C] L/C																				
* * *																													
VEHICLE SERVICE	3.5.13																												
Automobile Storage Lot	3.5.13.A																					C				L	L	L	
* * *																													

\* \* \*

**Sec. 3. DIVISION 59-3.2 is amended as follows:**

**Division 3.2. Agricultural Uses**

\* \* \*

**Section 3.2.4. Equestrian Facility**

**A. Defined**

Equestrian Facility means any structure or land that is used primarily for the care, breeding, boarding, rental, riding, or training of horses or the teaching of equestrian skills. Equestrian Facility includes events such as competitions, exhibitions, or other displays of equestrian skills.

**B. Use Standards**

1. Where an Equestrian Facility is allowed as a limited use, it must satisfy the following standards:

- a. The minimum gross acreage per horse is as follows:
  - i. for 1-2 horses, 2 acres;
  - ii. for 3-10 horses, one acre per horse; and
  - iii. for more than 10 horses, 10 acres plus an additional one-half acre for each horse over 10.
- b. In the RNC zone, a maximum of 5 horses is allowed.
- c. In the RE-2, RE-2C, RE-1, and R-200 zones, a maximum of 5 horses are allowed if the following standards are satisfied:
  - i. The horses are kept for non-commercial purposes. Commercial purposes include boarding horses not owned by the resident for a fee, instruction in equestrian skills for a fee, and events such as competitions, exhibitions, or other displays of equestrian skills.

78                   ii.     The maximum number of horses is determined by the  
79                             minimum lot sizes in Section 3.2.4.B.1.a.

80                   iii.    State requirements for nutrient management concerning  
81                             animal waste must be met.

82           [c]d. Any Equestrian Facility that keeps or boards more than 10  
83                   horses must meet all nutrient management, water quality, and  
84                   soil conservation standards of the County and State. A nutrient  
85                   management plan prepared by a qualified professional and a  
86                   soil conservation and water quality plan prepared by the  
87                   Montgomery Soil Conservation District Board must be  
88                   submitted through a letter of certification by the landowner to  
89                   DPS, or other relevant agency. Enforcement of the nutrient  
90                   management, water quality, and soil conservation plans is the  
91                   responsibility of the State of Maryland. The landowner must  
92                   obtain all plans within one year after starting operations.

93           [d]e. Each building, show ring, paddock, outdoor arena, and manure  
94                   storage area must be located at least 100 feet from any existing  
95                   dwelling on an abutting property.

96           [e]f. Amplified sound must satisfy Chapter 31B.

97           [f]g. Any outdoor arena lighting must direct light downward using  
98                   full cutoff fixtures; producing any glare or direct light onto  
99                   nearby properties is prohibited. Illumination is prohibited after  
100                   10:00 p.m. on Friday or Saturday, and after 9:00 p.m. on  
101                   Sunday through Thursday.

102           [g]h. Equestrian events are restricted as follows:



Site Requirements	Hours of Operation		Number of Participants and Spectators			
	Su-Th	Fr-Sa	Event	Informal Event	Minor Event	Major Event
			0-25	26-50	51-150	151-300
Up to 17.9 acres	6am-9pm	6am-10pm	Unlimited on any day	None	None	None
18 - 24.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	None	None
25 - 74.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	None
75+ acres and direct access to a roadway with an Area Connector or higher classification	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	Maximum of 3 per year lasting up to 3 consecutive days each

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- [h].i. A permit must be obtained from DPS for each event involving between 151 and 300 participants and spectators, per day. The applicant must specify the nature of the event, the anticipated attendance of spectators and participants, the number of days the event will take place, the hours during which the event will take place, the area to be used for parking, any traffic control measures intended to be put in place, and any other information determined by DPS to be relevant to the issuance of the permit. A fee for issuance of the permit may be set by DPS.
- [i].i. An Equestrian Facility conditional use application may be filed with the Hearing Examiner to deviate from any limited use standard regarding: number of participants and spectators; number of events each year; event acreage; or hours of operation. [An Equestrian Facility conditional use approval must be renewed every 5 years. Before the conditional use is

119 renewed the Hearing Examiner must evaluate the effectiveness  
120 of the terms and conditions of the original approval.]

121 2. Where an Equestrian Facility is allowed as a conditional use, it may  
122 be permitted by the Hearing Examiner under all applicable limited use  
123 standards, Section 7.3.1, Conditional Use, and the following  
124 standards:

125 a. If the subject lot abuts property in the AR zone, screening under  
126 Division 6.5 is not required.

127 b. In the AR, R, RC, and RNC zones:

128 i. The Equestrian Facility must not adversely affect  
129 abutting land uses or the surrounding road network.

130 ii. In evaluating the compatibility of an Equestrian Facility  
131 on the surrounding land uses, the Hearing Examiner must  
132 consider that the impact of an agricultural use on  
133 surrounding land uses in an Agricultural or Rural  
134 Residential zone does not necessarily need to be  
135 controlled as stringently as the impact in a Residential  
136 zone.

137 c. In the RE-2, RE-2C, RE-1, and R-200 zones:

138 i. Any Equestrian Facility on less than 5 acres must  
139 establish through a pasture maintenance plan, feeding  
140 plan, and any other documentation the Hearing Examiner  
141 requires, that the site contains sufficient open pasture to  
142 ensure proper care of the horses and proper maintenance  
143 of the site.

144 ii. The Hearing Examiner may limit or regulate more  
145 stringently than limited use standards the following:

- 146 (a) the number of horses that may be kept or boarded;
- 147 (b) the number of horses that may be rented out for
- 148 recreational riding or instruction;
- 149 (c) the number and type of equestrian events that may
- 150 be held in a one-year period; and
- 151 (d) the hours of operation of any equestrian event or
- 152 activity.
- 153 iii. The facility operator must satisfy the state requirements
- 154 for nutrient management concerning animal waste.

155 \* \* \*

156 **Sec. 4. DIVISION 59-3.3 is amended as follows:**

157 **Division 3.3. Residential Uses**

158 \* \* \*

159 **Section 3.3.3. Accessory Residential Uses**

160 \* \* \*

161 **G. Home Health Practitioner**

162 **1. Defined[, In General]**

163 a. Home Health Practitioner means the office of a health  
 164 practitioner who is licensed or certified by a Board under the  
 165 Maryland Department of Health and Mental Hygiene, has an  
 166 advanced degree in the field from an accredited educational  
 167 institution, and who resides in the dwelling unit in which the  
 168 office is located. Home Health Practitioner includes a registered  
 169 nurse or physician’s assistant if that person has an advanced  
 170 degree in the field and practices independently. Home Health  
 171 Practitioner does not include an electrologist, mortician, nursing  
 172 home administrator, pharmacist, or veterinarian.

173           b.    Home Health Practitioner is limited to 2 health practitioners,  
174                   one of whom must be a resident, and up to 3 non-resident  
175                   support persons in any 24-hour period.

176           **2.    Use Standards [for All Home Health Practitioners]**

177           a.    Where a Home Health Practitioner is allowed as a limited use, it  
178                   must satisfy the following standards:

179                   [[a]]i. A Home Health Practitioner is prohibited in an  
180                               apartment, [multi use] multi-use, and general building  
181                               type.

182                   [[b]]ii.       Screening under Division 6.5 is not required.

183                   [[c]]iii.       To maintain the residential character of the  
184                               dwelling:

185                               [[i.]](a)       The use must be conducted by an individual  
186   or individuals residing in the dwelling unit.

187                               [[ii.]](b)       The use must be conducted within the  
188   dwelling unit or any accessory building and  
189   not in any open yard area. The use must be  
190   subordinate to the use of the dwelling for  
191   residential purposes and any external  
192   modifications must be consistent with the  
193   residential appearance of the dwelling unit.

194                               [[iii.]](c)       Exterior storage of goods or equipment is  
195   prohibited.

196                               [[iv.]](d)       The maximum amount of floor area used for  
197   the Home Health Practitioner is 33% of the  
198   eligible floor area of the dwelling unit plus

- 199 any existing accessory building on the same  
200 lot, or 1,500 square feet, whichever is less.
- 201 [[v.]](e) An existing accessory building may be used  
202 for the home health practice, but external  
203 evidence of such use is prohibited. Only one  
204 accessory building may be used and it must  
205 be an eligible area.
- 206 [[vi.]](f) Equipment or facilities are limited to:  
207 [[a]](1) office equipment; or  
208 [[b]](2) medical equipment.
- 209 [[vii.]](g) Any equipment or process that creates a  
210 nuisance or violates any law is prohibited in  
211 connection with the operation of a home  
212 health practice.
- 213 [[viii.]](h) Disposal of medical waste must be regulated  
214 by State laws and regulations.
- 215 [[ix.]](i) Truck deliveries are prohibited, except for  
216 parcels delivered by public or private parcel  
217 services that customarily make residential  
218 deliveries.
- 219 [[x.]](j) Appointments are required for visits, but  
220 emergency patients may visit outside the  
221 specified hours or without appointment.
- 222 [[xi.]](k) Clients, patients, or other visitors must be  
223 informed of the correct address and parking  
224 location in advance of any appointment.

225                             ~~[[xii.]]~~(1)     In a Residential zone, any additional parking  
 226   must be located behind the front building  
 227   line.

228                             ~~[[d]]~~iv.     The applicant must provide valid proof of home  
 229   address as established by Executive regulations  
 230   under Method 2 of Chapter 2 (Section 2A-15).

231                             ~~[[e]]~~v.     In the AR zone, this use may be prohibited under  
 232   Section 3.1.5, Transferable Development Rights.

233     **[3. Home Health Practitioner (Low Impact)]**

234     **[a. Defined**

235     Home Health Practitioner (Low Impact) means a Home Health  
 236     Practitioner that is limited to 2 resident health practitioners and one  
 237     non-resident support person in a 24-hour period.]

238     **[b. Use Standards**

239     Where a Home Health Practitioner (Low Impact) is allowed as a  
 240     limited use, it must satisfy the following standards:]

241             ~~[[i]]~~vi.   Treatment of more than one patient or client at a time is  
 242   allowed, but not more than 3 vehicle trips containing not  
 243   more than 10 patients may come or leave at the same  
 244   appointment time.

245             ~~vii.~~   A Home Health Practitioner may only operate between  
 246   the hours of 7:00 a.m. and 7:00 p.m.

247             ~~[[ii]]~~viii.The sale of goods on the premises is prohibited, except  
 248   for medication prescribed by the health practitioner or a  
 249   prescribed remedial device that cannot be obtained from  
 250   a commercial source.

251 [iii]ix. A maximum of one Home Occupation (Low Impact) and  
252 one Home Health Practitioner [(Low Impact)] is allowed  
253 on the same site. A Home Health Practitioner is not  
254 permitted on a site that is already approved for any other  
255 conditional use under Section 7.3.1, Conditional Use or a  
256 Home Occupation (Major Impact).

257 [iv]x. An indoor waiting room must be provided if more than  
258 one patient or client will be on the premises at the same  
259 time.

260 [v]xi. Parking must be screened under Section 6.2.9.B or  
261 Section 6.2.9.C, depending on the number of parking  
262 spaces provided.

263 [i]b. Where a Home Health Practitioner is allowed as a conditional  
264 use, the limited use standards of this Section apply, except the  
265 hours of operation; number of clients, customers, patients, or  
266 other visitors allowed; and the on-site sale of goods may be  
267 determined by the Hearing Examiner under Section 7.3.1,  
268 Conditional Use.

269 [c][m]3. **Registration.**

270 Any Home Health Practitioner [(Low Impact)] must register with DPS.

271 [i]a. **Application Requirements**

272 An application for registration must include the following:

273 [(a)]i. a signed affidavit of compliance that affirms that  
274 the applicant:

275 [(1)](a) satisfies the applicable standards in Section  
276 3.3.3.G; and

277                                    ~~[(2)](b)~~ will take whatever action is required by DPS  
278                                    to bring the Home Health Practitioner [(Low  
279                                    Impact)] into compliance if complaints of  
280                                    noncompliance are received and verified;

281                                    ~~[(b)](ii)~~. The manner in which the operation of the Home  
282                                    Health Practitioner [(Low Impact)] satisfies the use  
283                                    standards in Section 3.3.3.G;

284                                    ~~[(c)](iii)~~. the location of the lot by street address and either  
285                                    lot and block number or liber and folio;

286                                    ~~[(d)](iv)~~. The zone in which the lot is located;

287                                    ~~[(e)](v)~~. area of the lot or parcel, in square feet or acres;

288                                    ~~[(f)](vi)~~. The total floor area of the dwelling unit and the  
289                                    amount of floor area to be used for the Home  
290                                    Health Practitioner [(Low Impact)], as well as the  
291                                    floor area of any existing accessory building to be  
292                                    used for the Home Health Practitioner [(Low  
293                                    Impact)];

294                                    ~~[(g)](vii)~~. The location and number of off-street parking  
295                                    spaces;

296                                    ~~[(h)](viii)~~. proof of home address;

297                                    ~~[(i)](ix)~~. Other pertinent information required by DPS;

298                                    ~~[(j)](x)~~. a copy of the use-and-occupancy permit required  
299                                    under Section 7.4.2; and

300                                    ~~[(k)](xi)~~. the location of any indoor waiting room for  
301                                    patients, if more than one patient will be on the  
302                                    premises at the same time.

303                                    ~~[(ii)](b)~~.                    **Approval**



304                    [(a)]i.          DPS must issue a Certificate of Registration if the  
305    applicant:

306                                 [(1)](a)        satisfies Section 3.3.3.G; and

307                                 [(2)](b)        has an approved on-site inspection.

308                    [(b)]ii.        DPS must maintain a Home Health Practitioner  
309    Registry that is readily available for public  
310    inspection.

311                    [(iii)]c.        **Compliance and Enforcement**

312                    [(a)]i.        If DPS receives a complaint about a Home Health  
313    Practitioner [(Low Impact)], an inspector must  
314    inspect the property and determine, within 90 days  
315    after receipt of the complaint, whether there is a  
316    violation of the provisions of Section 3.3.3.G.

317                    [(b)]ii.        If DPS determines that there is a violation, DPS  
318    may issue a warning notice, and the violation must  
319    be corrected within 30 days after the warning  
320    notice is issued.

321                                 [(1)](a)        In the case of any violation that could be  
322    remedied with a conditional use approval, a  
323    petition must be filed within 60 days after  
324    the warning notice is issued for a conditional  
325    use for a Home Health Practitioner [(Major  
326    Impact)] under Section 3.3.3.G.4.

327                                 [(2)](b)        A hearing on a petition for a conditional use  
328    filed in the case of a Home Health  
329    Practitioner [(Low Impact)] found to be in  
330    violation of Section 3.3.3.G must be

331 scheduled within 30 days, or as soon as the  
332 Hearing Examiner's calendar permits. The  
333 Hearing Examiner does not have authority to  
334 grant the applicant any extension of the  
335 hearing in such a case.

336 ~~[(3)]~~(c) Operation of the Home Health Practitioner  
337 [(Low Impact)] may continue until the  
338 Hearing Examiner has acted on the petition,  
339 if the violation is corrected before the  
340 application for conditional use is filed. If the  
341 Hearing Examiner denies the conditional use  
342 application, the Home Health Practitioner  
343 [(Low Impact)] must cease immediately or  
344 operate under the requirements for a Home  
345 Health Practitioner [(Low Impact)].

346 ~~[(c)]~~iii. DPS may issue a citation under Division 7.8:  
347 ~~[(1)]~~(a) immediately, instead of a warning notice  
348 under Section 3.3.3.G.3.c.iii(b); or  
349 ~~[(2)]~~(b) 30 days or more after the warning notice  
350 was issued under Section 3.3.3.G.3.c.iii(b).

- 351 **[4. Home Health Practitioner (Major Impact)**  
352 **a. Defined**  
353 Home Health Practitioner (Major Impact) means a Home Health  
354 Practitioner limited to 2 resident health practitioners and 2 or more  
355 non-resident support persons in any 24-hour period.]  
356 **[b. Use Standards**

357 Where a Home Health Practitioner (Major Impact) is allowed as a  
358 conditional use, it may be permitted by the Hearing Examiner under  
359 Section 7.3.1, Conditional Use, and the following standards:

- 360 i. The hours of operation and number of clients, customers,  
361 patients or other visitors allowed during that time are  
362 determined by the Hearing Examiner.
- 363 ii. The maximum number of deliveries is determined by the  
364 Hearing Examiner.
- 365 iii. On-site sale of goods is determined by the Hearing  
366 Examiner.
- 367 iv. The Hearing Examiner may grant a conditional use for a  
368 Home Health Practitioner (Major Impact) on the same  
369 site as a Home Health Practitioner (Low Impact), a Home  
370 Occupation (Low Impact), or a Home Occupation (No  
371 Impact) if it finds that both together can be operated in a  
372 manner that satisfies Section 3.3.3.G.4 and Section 7.3.1,  
373 Conditional Use.
- 374 v. The Hearing Examiner must not grant a conditional use  
375 for a Home Health Practitioner (Major Impact) where the  
376 site is already approved for any other conditional use  
377 under Section 7.3.1, Conditional Use.
- 378 vi. An indoor waiting room must be provided.
- 379 vii. Screening under Division 6.5 is not required.]

380 \* \* \*

381 **H. Home Occupation**

382 **1. Defined, In General**

383 Home Occupation means any occupation that provides a service or product  
 384 and is conducted within a dwelling unit by a resident of the dwelling unit.  
 385 Home Occupation does not include Home Health Practitioner (see Section  
 386 3.3.3.G, Home Health Practitioner), Bed and Breakfast (see Section 3.5.6.B,  
 387 Bed and Breakfast), Day Care Facility (see Section 3.4.4, Day Care  
 388 Facility), display of furniture not made in the home for sale in the home or at  
 389 an off-site location, Landscape Contractor (see Section 3.5.5, Landscape  
 390 Contractor), or Educational Institution (Private) (see Section 3.4.5,  
 391 Educational Institution (Private)).

392 **2. Use Standards for all Home Occupations**

- 393 a. Screening under Division 6.5 is not required.
- 394 b. To maintain the residential character of the dwelling:
  - 395 i. The use must be conducted by an individual or  
 396 individuals residing in the dwelling unit.
  - 397 ii. The use must be conducted within the dwelling unit or  
 398 any accessory building and not in any open yard area.  
 399 The use must be subordinate to the use of the dwelling  
 400 for residential purposes and require no external  
 401 modifications that detract from the residential appearance  
 402 of the dwelling unit.
  - 403 iii. Exterior storage of goods or equipment is prohibited.
  - 404 iv. The maximum amount of floor area used for the Home  
 405 Occupation must not exceed 33% of the total eligible  
 406 area of the dwelling unit and any existing accessory  
 407 building on the same lot, or 1,500 square feet, whichever  
 408 is less.

- 409 v. An existing accessory building may be used for the
- 410 Home Occupation, but external evidence of such use is
- 411 prohibited. Only one accessory building may be used and
- 412 it must be an eligible area.
- 413 vi. Equipment or facilities are limited to:
- 414 (a) domestic or household equipment;
- 415 (b) office equipment; or
- 416 (c) any equipment reasonably necessary for art
- 417 production, handcrafts, or making beer or wine.
- 418 vii. Any equipment or process that creates a nuisance or
- 419 violates any law is prohibited in the operation of a Home
- 420 Occupation.
- 421 viii. A Home Occupation is prohibited to use, store, or
- 422 dispose of:
- 423 (a) a quantity of a petroleum product sufficient to
- 424 require a special license or permit from The Fire
- 425 Marshal; or
- 426 (b) any material defined as hazardous or required to
- 427 have a special handling license under State and
- 428 County law.
- 429 ix. Truck deliveries are prohibited, except for parcels
- 430 delivered by public or private parcel services that
- 431 customarily make residential deliveries.
- 432 x. Display or storage of merchandise to be delivered must
- 433 not be visible outside of the residence and must be
- 434 contained within the maximum floor area available for
- 435 the Home Occupation.

- 436 xi. The storage of equipment or merchandise for collection
- 437 by employees who will use or deliver it at off-site
- 438 locations is prohibited.
- 439 xii. A second kitchen in the home for catering or making
- 440 food for off-site delivery or sales is prohibited.
- 441 xiii. The maintenance or repair of motor vehicles for
- 442 compensation is prohibited.

\* \* \*

444 **5. Home Occupation (Major Impact)**

445 **a. Defined**

446 Home Occupation (Major Impact) means a Home Occupation that is  
447 limited to 2 non-resident employees in any 24-hour period [[and is  
448 regulated under Section 7.3.1, Conditional Use]].

449 **b. Use Standards**

450 i. Where a Home Occupation (Major Impact) is allowed as  
451 a limited use, it must satisfy the following standards:

452 (a) The maximum number of visits is 35 per week,  
453 and no more than 8 per day, excluding deliveries  
454 and the arrival and departure of any non-resident  
455 employee.

456 (b) Visitors must wait inside the dwelling unit.

457 (c) In-person sale of goods is limited to:

458 (1) the products of dressmaking, hand-weaving,  
459 block-printing, the making of jewelry,  
460 pottery or musical instruments by hand, or  
461 similar arts or hand-crafts performed by a  
462 resident of the dwelling; and

463 (2) a maximum of 5 sales per month of items  
464 ordered for delivery at a later date to  
465 customers at other locations (delivery of  
466 goods must occur off-site).

467 (d) Display or storage of goods is limited to:

468 (1) the products listed in Section  
469 3.3.3.H.5.b.i.(c); and

470 (2) samples of merchandise that may be ordered  
471 by customers for delivery at other locations.

472 (e) Display or storage of merchandise to be delivered  
473 must not be visible outside of the residence and  
474 must be contained within the maximum floor area  
475 available for the Home Occupation.

476 (f) Home Occupation (Major Impact) may not be on a  
477 site that is already approved for another  
478 conditional use under Section 7.3.1, Conditional  
479 Use or Home Health Care Practitioner.

480 (g) The applicant must provide valid proof of home  
481 address as established by Executive regulations  
482 under Method 2 of Chapter 2 (Section 2A-15).

483 (h) Screening under Division 6.5 is not required.

484 ii. Where a Home Occupation (Major Impact) is allowed as  
485 a conditional use, it may be permitted by the Hearing  
486 Examiner under Section 7.3.1, Conditional Use, and the  
487 following standards:

488 [i.](a) The maximum number of visits and deliveries is  
489 determined by the Hearing Examiner.

- 490 [ii.](b) An indoor waiting room must be provided.
- 491 [iii.](c) In-person sale of goods is limited to:
- 492 [(a)](1) the products of dressmaking, hand-
- 493 weaving, block-printing, the making of
- 494 jewelry, pottery or musical instruments by
- 495 hand, or similar arts or hand-crafts
- 496 performed by a resident of the dwelling; and
- 497 [(b)](2) a maximum of 5 sales per month of
- 498 items ordered for delivery at a later date to
- 499 customers at other locations (delivery of
- 500 goods must occur off-site).
- 501 [iv.](d) Display or storage of goods is limited to:
- 502 [(a)](1) the products listed in Section
- 503 3.3.3.H.5.b.iii.(a); and
- 504 [(b)](2) samples of merchandise that may be
- 505 ordered by customers for delivery at other
- 506 locations.
- 507 [v.](e) Display or storage of merchandise to be
- 508 delivered must not be visible outside of the
- 509 residence and must be contained within the
- 510 maximum floor area available for the Home
- 511 Occupation.
- 512 [vi.](f) The Hearing Examiner may grant a
- 513 conditional use for a Home Occupation (Major
- 514 Impact) on the same site as a Home Occupation
- 515 (Low Impact), a Home Occupation (No Impact), or
- 516 a Home Health Practitioner [(Low Impact)] if [it]



517 the Hearing Examiner finds that both together can  
518 be operated in a manner that satisfies Section  
519 3.3.3.H.5 and Section 7.3.1, Conditional Use.

520 [vii.](g) The Hearing Examiner must not grant a  
521 conditional use for a Home Occupation (Major  
522 Impact) where the site is already approved for any  
523 other conditional use under Section 7.3.1,  
524 Conditional Use.

525 [viii.](h) The applicant must provide valid proof of  
526 home address as established by Executive  
527 regulations under Method 2 of Chapter 2 (Section  
528 2A-15).

529 [ix.](i) Screening under Division 6.5 is not required.

530 [x.](j) In the AR zone, this use may be prohibited  
531 under Section 3.1.5, Transferable Development  
532 Rights.

533 \* \* \*

534 **Sec. 5. DIVISION 59-3.4 is amended as follows:**

535 **Division 3.4. Civic and Institutional Uses**

536 \* \* \*

537 **Section 3.4.4. Day Care Facility**

538 **A. Defined, In General**

539 Day Care Facility means an establishment where care is provided for less than 24  
540 hours a day, for which the provider is paid, for any of the following: children under  
541 the age of 17 years; developmentally disabled persons; handicapped individual; or  
542 any elderly individual. Day Care Facility includes accessory preschool and  
543 kindergarten educational programs that are accredited by the State.

544 **B. Exemptions**

545 The conditional use standards in Section [3.4.4.E.2.b] 3.4.4.D.2.b and Section  
 546 [3.4.4.F.2.b.i] 3.4.4.E.2.b.i through Section [3.4.4.F.2.b.v] 3.4.4.E.2.b.v do not  
 547 apply to a Day Care Center operated by a nonprofit organization and located in:

- 548 1. a structure owned or leased by a religious organization and used for  
 549 worship, or a structure located on premises owned or leased by a  
 550 religious organization that is adjacent to premises regularly used as a  
 551 place of worship;
- 552 2. a structure used for private, parochial education purposes that is  
 553 exempted from the conditional uses standards under Section 3.4.5,  
 554 Educational Institution (Private); or
- 555 3. a publicly-owned building.

556 **C. Family Day Care (Up to [8] 12 Persons)**

557 **Defined**

558 Family Day Care (Up to [8] 12 Persons) means a Day Care Facility for a  
 559 maximum of [8] 12 people in a dwelling where for child day care the  
 560 registrant is the provider and a resident, or the registrant is not a resident but  
 561 more than half the children cared for are residents. The provider's own  
 562 children under the age of 6 are counted [within the group of 8] toward the  
 563 maximum number of people allowed. For care of senior adults or persons  
 564 with disabilities the registrant is the provider. Family Day Care (Up to [8] 12  
 565 Persons) does not include more than 2 non-resident staff members on-site at  
 566 any time or a provider that is not a resident and does not meet the  
 567 requirement for a non-resident provider (see Section [3.4.4.E] 3.4.4.D., Day  
 568 Care Center (13-30 Persons)).

- 569 1. The registrant must be the provider and a resident. If the provider is  
 570 not a resident, the provider may file a conditional use application for a  
 571 Day Care Center (13-30 Persons) (see Section 3.4.4.D).
- 572 2. No more than 3 non-resident staff members may be on-site at any  
 573 time.

574 **[D. Group Day Care (9 -12 Persons)]**

575 **1. Defined**

576 Group Day Care (9-12 Persons) means a Day Care Facility for 9 to 12  
577 people where staffing, operations, and structures comply with State and local  
578 regulations and the provider’s own children under the age of 6 are counted  
579 towards the maximum number of people allowed.

580 **2. Use Standards**

- 581 a. Where a Group Day Care (9-12 Persons) is allowed as a limited  
 582 use, it must satisfy the following standards:
  - 583 i. The facility must not be located in a townhouse or duplex  
 584 building type.
  - 585 ii. In a detached house, the registrant is the provider and a  
 586 resident. If the provider is not a resident, the provider  
 587 may file a conditional use application for a Day Care  
 588 Center (13-30 Persons) (see Section 3.4.4.E).
  - 589 iii. In a detached house, no more than 3 non-resident staff  
 590 members are on-site at any time.
  - 591 iv. In the AR zone, this use may be prohibited under Section  
 592 3.1.5, Transferable Development Rights.
- 593 b. Where a Group Day Care (9-12 Persons) is allowed as a  
 594 conditional use, it may be permitted by the Hearing Examiner

595 under all limited use standards and Section 7.3.1, Conditional  
596 Use.]

597 **[E]D. Day Care Center (13 - 30 Persons)**

598 **1. Defined**

599 Day Care Center (13-30 Persons) means a Day Care Facility for 13 to 30  
600 people where staffing, operations, and structures satisfy State and local  
601 regulations. A Day Care Center (13-30 Persons) includes a Family Day Care  
602 (Up to [8] 12 Persons) [and Group Day Care (9-12 Persons)] where the  
603 provider is not a resident and cannot meet the non-resident provider  
604 requirement.

605 **2. Use Standards**

606 Where a Day Care Center (13-30 Persons) is allowed as a conditional use, it  
607 may be permitted by the Hearing Examiner under Section 7.3.1, Conditional  
608 Use, and the following standards:

- 609 a. The facility must not be located in a townhouse or duplex  
610 building type.
- 611 b. An adequate area for the discharge and pick up of children is  
612 provided.
- 613 c. The number of parking spaces under Division 6.2 may be  
614 reduced if the applicant demonstrates that the full number of  
615 spaces is not necessary because:
  - 616 i. existing parking spaces are available on abutting property  
617 or on the street abutting the site that will satisfy the  
618 number of spaces required; or
  - 619 ii. a reduced number of spaces would be sufficient to  
620 accommodate the proposed use without adversely

621 affecting the surrounding area or creating safety  
622 problems.

623 d. For a Family Day Care where the provider is not a resident and  
624 cannot meet the non-resident provider requirement, screening  
625 under Division 6.5 is not required.

626 e. In the AR zone, this use may be prohibited under Section 3.1.5,  
627 Transferable Development Rights.

628 **[F]E. Day Care Center (Over 30 Persons)**

629 \* \* \*

630 **Sec. 6. DIVISION 59-3.5 is amended as follows:**

631 **Division 3.5. Commercial Uses**

632 \* \* \*

633 **Section 3.5.11. Retail Sales and Service**

634 \* \* \*

635 **B. Retail/Service Establishment**

636 **1. Defined**

637 Retail/Service Establishment means a business providing personal services  
638 or sale of goods to the public. Retail/Service Establishment does not include  
639 Animal Services (see Section 3.5.1, Animal Services) or Drive-Thru (see  
640 Section 3.5.14.E, Drive-Thru).

641 **2. Use Standards**

642 a. Where a Retail/Service Establishment is allowed as a limited  
643 use, it must satisfy the following standards:

644 i. In the R-10 zone:

645 (a) The apartment building type must contain a  
646 minimum of 150 dwelling units, be a minimum of

647 60 feet in height, and be on a site with a minimum  
648 of 5 acres.

649 (b) A maximum of 10% of the gross floor area of the  
650 building or 10,000 square feet, whichever is less,  
651 may be used for the Retail/Service Establishment  
652 use.

653 (c) Only small-scale retail sales and personal service  
654 establishments are permitted. Small-scale retail  
655 sales and personal service establishments provide  
656 convenience goods and services typically requiring  
657 frequent purchase and a minimum of travel by  
658 occupants of the nearby commercial area and  
659 adjacent residential neighborhood.

660 ii. In the CRN zone:

661 (a) If the subject lot abuts or confronts a property  
662 zoned Agricultural, Rural Residential, or  
663 Residential Detached that is vacant or improved  
664 with an agricultural or residential use, site plan  
665 approval is required under Section 7.3.4.

666 (b) A Retail/Service Establishment over 15,000 square  
667 feet of gross floor area must be a grocery store.

668 iii. In the CRT, GR, and NR zones, if the subject lot abuts or  
669 confronts a property zoned Agricultural, Rural  
670 Residential, or Residential Detached that is vacant or  
671 improved with an agricultural or residential use, site plan  
672 approval is required under Section 7.3.4.

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- iv. In the CRT, CR, GR, and NR zones, where a development is located within 1/2 mile of a Metro station entrance and has a minimum 50,000 square foot footprint or a minimum of 100,000 square feet of all gross floor area designed for a single user, it must satisfy the following standards:
  - (a) In addition to any street-facing entrance requirement, all sides of a building that front an abutting public right-of-way must have at least one active entrance.
  - (b) Parking facilities, excluding access driveways, must be located below-grade or in a structure behind or within the primary building.
  - (c) The maximum building footprint of the area designed for a single Retail/Service Establishment use is 80,000 square feet.
  - (d) Additional floor area equal to at least 20% of the footprint designed for the largest Retail/Service Establishment must be provided as street level retail spaces with less than 5,000 square feet of tenant gross floor area each. These spaces must be located at street level, and a secondary entrance accessing the primary Retail/Service Establishment use is prohibited. At least 50% of the additional tenant space(s) must be located along the facade where the primary active customer entrance for the

- 699 largest single Retail/Service Establishment is
- 700 located.
- 701 (e) If applicable, full architectural parapets or
- 702 equivalent features must be used around the entire
- 703 building to conceal rooftop mechanical equipment.
- 704 (f) Any residential floor area or office floor area must
- 705 be equal to or greater than the gross floor area
- 706 designed for the subject Retail/ Service
- 707 Establishment. At least 50% of the gross floor area
- 708 of the non-retail component must be located above
- 709 the street level retail footprint.
- 710 (g) Section 3.5.11.B.2.a.iv.(c) through Section
- 711 3.5.11.B.2.a.iv.(f) do not apply if more than 75%
- 712 of the gross floor area of the Retail/ Service
- 713 Establishment is a cellar.
- 714 (h) For a project greater than 500,000 square feet of
- 715 gross floor area, the Planning Board may approve
- 716 a development that does not satisfy Section
- 717 3.5.11.B.2.a.iv.(a) through Section 3.5.11.B.2.a.iv.
- 718 (f) if it finds that the project, through an alternative
- 719 design, results in a more appropriate configuration
- 720 of the site.
- 721 (i) Section 3.5.11.B.2.a.iv does not apply to a regional
- 722 shopping center.
- 723 v. In the EOF zone, Retail/Service Establishment is limited
- 724 to a maximum of 30% of the gross floor area on the
- 725 subject site.



- 726 vi. In the LSC zone, if the tract is larger than 5 acres,
- 727 Retail/Service Establishment is limited to a maximum of
- 728 10% of the gross floor area of development approved
- 729 under one application. If site plan approval is required
- 730 under Section 7.3.4, the Planning Board may approve a
- 731 maximum of 15% of the gross floor area for
- 732 Retail/Service Establishment if the Planning Board finds
- 733 that unique circumstances are present and the area would
- 734 be enhanced by additional retail activity.
- 735 vii. In the IL and IM zones, Retail/Service Establishment is
- 736 limited to:
- 737 (a) building and food service supply, home design and
- 738 furnishings, wholesale or retail;
- 739 (b) computer programming and software sales and
- 740 service, including data banks, and data retrieval;
- 741 (c) wholesale trades limited to sale or rental of
- 742 products intended for industrial or commercial
- 743 users; and
- 744 (d) other Retail/Service Establishment uses or a
- 745 combination of Office, Retail/Service
- 746 Establishment, or Restaurant uses that occupy a
- 747 maximum of 35% of the mapped FAR.
- 748 viii. In the IH zone, Retail/Service Establishment is limited to:
- 749 (a) building and food service supply, home design and
- 750 furnishings, wholesale or retail;

- 751 (b) computer programming and software sales and
- 752 service, including data banks, and data retrieval;
- 753 and
- 754 (c) wholesale trades limited to sale or rental of
- 755 products intended for industrial or commercial
- 756 users.
- 757 ix. For Retail/Service [[Retail/Service]] Establishments
- 758 120,001 square feet and over:
- 759 (a) Any facade longer than 100 horizontal feet must
- 760 incorporate wall plane projections or recesses.
- 761 (b) Street level retail facades that front public or
- 762 private streets or parking areas must provide
- 763 transparent glazing for at least 60 percent of the
- 764 horizontal length of the building facade as
- 765 measured from a height of no more than 3 feet
- 766 above the walkway grade to no more than 8 feet
- 767 above the walkway grade [[between the height, at
- 768 a minimum, of 3 feet and 8 feet above the
- 769 walkway grade]]. Transparent glazing includes
- 770 transparent windows, unobstructed display
- 771 windows, or transparent store doors.
- 772 (c) All sides of a building that front an abutting public
- 773 right-of-way must have at least one active retail,
- 774 residential, or office entrance.
- 775 (d) Areas for storage, truck parking, trash collection,
- 776 or compaction and loading must be screened from
- 777 public rights-of-way.

778 (e) Variations in rooflines must be used when  
779 possible. Full architectural parapets or equivalent  
780 features must be used around the entire building to  
781 conceal rooftop mechanical equipment.

782 [b. Where a Retail/ Service Establishment is allowed as a  
783 conditional use, it may be permitted by the Hearing Examiner  
784 under Section 7.3.1, Conditional Use, and the following  
785 standard:

786 The building must be designed in a way that reduces its scale  
787 and contributes to its visual interest. Long building walls should  
788 have projections, recessions, or other effective treatments that  
789 improve building design.]

790 \* \* \*

791 **D. Rural Country Market**

792 **1. Defined**

793 Rural Country Market means the display and retail sale in a rural or  
794 residential area of agricultural products and farm food products certified as  
795 non-potentially hazardous by the Department of Health and Human  
796 Services. A Rural Country Market includes the display and sale of non-  
797 edible farm products only if the products are grown and processed on farms  
798 in the State of Maryland. Rural Country Market does not include the sale or  
799 storage of bread, cheese, or other foodstuffs produced in a commercial  
800 kitchen, or an eating and drinking establishments (see Section 3.5.3, Eating  
801 and Drinking).

802 **2. Use Standards**

803 a. Where a Rural Country Market is allowed as a [conditional]  
804 limited use, it [may be permitted by the Hearing Examiner

805 under Section 7.3.1, Conditional Use, and] must satisfy the  
806 following standards:

807 [a]i. The minimum tract area is 2 acres.

808 [b]ii. The maximum height is 20 feet, unless located in an  
809 existing building.

810 [c]iii. The minimum setback from the street and from any side  
811 or rear lot line is 50 feet [, except that the minimum  
812 setback from the street may be reduced to 25 feet if the  
813 Hearing Examiner finds that the smaller setback would  
814 be compatible with surrounding uses. The Hearing  
815 Examiner may approve the use of an existing structure  
816 that does not meet these requirements if the Hearing  
817 Examiner finds that the use is suitable and compatible  
818 with the surrounding area].

819 b. Where a Rural Country Market is allowed as a conditional use,  
820 it may be permitted by the Hearing Examiner under Section  
821 7.3.1, Conditional Use, all applicable limited use standards, and  
822 the following standards:

823 i. The minimum setback from the street under  
824 3.5.11.D.2.a.iii. may be reduced to 25 feet if the Hearing  
825 Examiner finds that the smaller setback would be  
826 compatible with surrounding uses.

827 ii. The Hearing Examiner may approve the use of an  
828 existing structure that does not meet these requirements if  
829 the Hearing Examiner finds that the use is suitable and  
830 compatible with the surrounding area.

831 \* \* \*

832 **Section 3.5.13. Vehicle Service**

833 **A. Automobile Storage Lot**

834 **1. Defined**

835 Automobile Storage Lot means the storage of automobiles in connection  
836 with a towing operation. Automobile Storage Lot does not include the  
837 storage of junked cars.

838 **2. Use Standards**

839 a. Where an Automobile Storage Lot is allowed as a limited use, it  
840 must satisfy the following standards:

841 i. Vehicles must be stored or parked only on a hard surface  
842 that is constructed of impervious material resistant to  
843 erosion, is adequately treated to prevent dust emission,  
844 and is surrounded by a raised curb. The parking and  
845 storage area must be set back 15 feet from any right-of-  
846 way, 25 feet from any lot line abutting land in an  
847 Agricultural, Rural Residential, or Residential Detached  
848 zone, and 3 feet from any other lot line.

849 ii. Access to the site from a street with a residential  
850 classification is prohibited.

851 iii. The tract on which an Automobile Storage Lot use is  
852 allowed must be less than 10 acres in size.

853 iv. On-site illumination must be 0.5 footcandles or less at the  
854 lot line, excluding street lights within the right-of-way.

855 b. Where an Automobile Storage Lot is allowed as a conditional  
856 use, it may be permitted by the Hearing Examiner under  
857 Section 7.3.1, Conditional Use.

858

859

\* \* \*

860 **Sec. 7. DIVISION 59-6.2 is amended as follows:**

861 **Division 6.2. Parking, Queuing, and Loading**

862

\* \* \*

863 **Section 6.2.4. Parking Requirements**

864 \* \* \*

865 **B. Vehicle Parking Spaces**

866

USE or USE GROUP	Metric	AGRICULTURAL, RURAL RESIDENTIAL, RESIDENTIAL, AND INDUSTRIAL ZONES	Commercial/Residential and Employment Zones		
			Within a Parking Lot District or Reduced Parking Area		Outside a Parking Lot District or Reduced Parking Area
		Baseline Minimum	Baseline Minimum	Baseline Maximum	Baseline Minimum
<b>RESIDENTIAL</b>					
* * *					
ACCESSORY RESIDENTIAL USES					
* * *					
Home Health Practitioner [(Low Impact)] [Home Health Practitioner (Major Impact)]	Home Health Practitioner	1.00	1.00	1.00	1.00
	Non-Resident Employee	1.00	1.00	1.00	1.00
	plus, Each Client Allowed per Hour	1.00	1.00	1.00	1.00
	(in addition to residential spaces)				
* * *					
<b>CIVIC AND INSTITUTIONAL</b>					
* * *					
DAY CARE FACILITY					
* * *					
Family Day Care [Group Day Care]	Non-Resident Employee (in addition to residential spaces)	1.00	0.50	1.50	1.00
	Required spaces may be allowed on the street abutting the site				
* * *					

867

\* \* \*

868 **Section 6.2.10. Parking Waiver**

869 The deciding body may waive any requirement of Division 6.2, except the required  
870 parking in a Parking Lot District under Section 6.2.3.H.1, if the alternative design  
871 satisfies Section 6.2.1. [Any request for a waiver of the vehicle parking space  
872 requirement under Section 6.2.4.B requires application notice under Section  
873 7.5.2.D.] Any request for a waiver of the vehicle parking space requirement under  
874 Section 6.2.4.B requires application notice under Section 7.5.2.D or Hearing  
875 Notice under Section 7.5.2.E.

876 \* \* \*

877 **Sec. 8. DIVISION 59-6.3 is amended as follows:**

878 **Division 6.3. Open Space and Recreation**

879 \* \* \*

880 **Section 6.3.4. Rural Open Space**

881 **A. General Requirements**

882 \* \* \*

883 **4. Uses in Rural Open Space**

884 a. In the RC zone, the following uses allowed under Article 59-3  
885 are prohibited in any rural open space area:

886 \* \* \*

- 887 [xiii. Group Day Care (9 - 12 Persons);]
- 888 [xiv]xiii. Day Care Center (13 - 30 Persons);
- 889 [xv]xiv. Day Care Center (Over 30 Persons);
- 890 [xvi]xv. Private Club, Service Organization;
- 891 [xvii]xvi. Public Use (Except Utilities);
- 892 [xviii]xvii. Religious Assembly;
- 893 [xix]xviii. Animal Boarding and Care;
- 894 [xx]xix. Veterinary Office/Hospital;



- 895 [xxi]~~xx~~. Media Broadcast Tower;
- 896 [xxii]~~xxi~~. Country Inn;
- 897 [xxiii]~~xxii~~. Cemetery;
- 898 [xxiv]~~xxiii~~. Landscape Contractor;
- 899 [xxv]~~xxiv~~. Shooting Range (Outdoor);
- 900 [xxvi]~~xxv~~. Rural Antique Shop; and
- 901 [xxvii]~~xxvi~~. Mining, Excavation.

b. In the RNC zone, the following uses allowed under Article 59-3 are prohibited in any rural open space area:

\* \* \*

- 905 [xv. Group Day Care (9 - 12 Persons);]
- 906 [xvi]~~xv~~. Day Care Center (13 - 30 Persons);
- 907 [xvii]~~xvi~~. Day Care Center (Over 30 Persons);
- 908 [xviii]~~xvii~~. Educational Institution (Private);
- 909 [xix]~~xviii~~. Playground, Outdoor Area (Private);
- 910 [xx]~~xix~~. Private Club, Service Organization;
- 911 [xxi]~~xx~~. Public Use (Except Utilities);
- 912 [xxii]~~xxi~~. Religious Assembly;
- 913 [xxiii]~~xxii~~. Swimming Pool (Community);
- 914 [xxiv]~~xxiii~~. Animal Boarding and Care;
- 915 [xxv]~~xxiv~~. Veterinary Office/Hospital;
- 916 [xxvi]~~xxv~~. Cable Communications System;
- 917 [xxvii]~~xxvi~~. Telecommunications Tower;
- 918 [xxviii]~~xxvii~~. Cemetery;
- 919 [xxix]~~xxviii~~. Landscape Contractor;
- 920 [xxx]~~xxix~~. Rural Antique Shop;
- 921 [xxxii]~~xxx~~. Rural Country Market; and

922 [xxxii]xxxi. Public Utility Structure.

923 \* \* \*

924 **Sec. 9. DIVISION 59-6.8 is amended as follows:**

925 **Division 6.8. Alternative Compliance**

926 **Section 6.8.1. Alternative Method of Compliance**

927 A. The [[applicable deciding body]] Planning Board may approve an alternative  
928 method of compliance with any requirement of Division 6.1 and Division  
929 6.3 through Division 6.6 if it determines that there is a unique site, a use  
930 characteristic, or a development constraint, such as grade, visibility, an  
931 existing building or structure, an easement, or a utility line. The [[applicable  
932 deciding body]] Planning Board must also determine that the unique site, use  
933 characteristic, or development constraint precludes safe or efficient  
934 development under the requirements of the applicable Division, and the  
935 alternative design will:

- 936 [A]1. satisfy the intent of the applicable Division;
- 937 [B]2. modify the applicable functional results or performance standards the  
938 minimal amount necessary to accommodate the constraints;
- 939 [C]3. provide necessary mitigation alleviating any adverse impacts; and
- 940 [D]4. be in the public interest.

941 B. [[Landscaping plans that provide more than the minimum requirements in  
942 Division 6.5 may be approved by the applicable deciding body without  
943 regard to this section.]] If an application is subject to a previous conditional  
944 use approval that approved alternative screening standards than those found  
945 under Section 6.2.9. or Division 6.5., those alternative standards apply and  
946 Section 6.8.1. is not applicable.

947 \* \* \*

948 **Sec. 10. DIVISION 59-7.3 is amended as follows:**

949 **Division 7.3. Regulatory Approvals**

950 **Section 7.3.1. Conditional Use**

951 \* \* \*

952 **D. Review and Recommendation**

953 **1. Planning Director Review**

954 a. The Planning Director may provide a report and  
955 recommendation for review by the Planning Board at a public  
956 meeting or issue a report and recommendation directly to the  
957 Hearing Examiner. The Planning Director must provide a report  
958 and recommendation on a telecommunication tower application  
959 directly to the Hearing Examiner.

960 b. If the Planning Director provides a report and recommendation  
961 to the Planning Board, the Planning Director must publish the  
962 report and recommendation a minimum of 10 days before the  
963 Planning Board public meeting.

964 c. If the Planning Director provides a report and recommendation  
965 to the Hearing Examiner, the Planning Director must publish  
966 the report and recommendation a minimum of 10 days before  
967 the Hearing Examiner’s public hearing.

968 **2. Planning Board Review**

969 a. The Planning Board may consider the Planning Director’s  
970 report and recommendation as a consent item on its agenda or  
971 hold a public meeting to consider the recommendation.

972 b. The Planning Board must provide a recommendation on the  
973 application to the Hearing Examiner a minimum of 7 days  
974 before the Hearing Examiner’s public hearing.

975 **3. Amendment of an Application**

- 976 a. An applicant may amend the application before the hearing if  
 977 the Hearing Examiner approves a motion to amend after giving  
 978 10 days' notice to all parties entitled to original notice of filing.  
 979 If an amendment would materially alter an applicant's proposal  
 980 or evidence, the Hearing Examiner may postpone the hearing to  
 981 a date that permits all interested parties adequate time to review  
 982 the amendment.
- 983 b. The applicant must forward a copy of any proposed amendment  
 984 to the Planning Board. The Hearing Examiner must keep the  
 985 record open for no more than 30 days to provide an opportunity  
 986 for the Planning Board or its staff to comment. Within that  
 987 time, the Planning Board or its staff must comment on the  
 988 amendment or state that no additional review and comment are  
 989 necessary.

990 **4. Dismissal or Withdrawal of an Application**

- 991 a. The Hearing Examiner may dismiss an application if the  
 992 application has been pending for more than one year and the  
 993 applicant has not actively pursued the application.
- 994 i. The Hearing Examiner must notify the applicant of the  
 995 contemplated dismissal at the applicant's last known  
 996 address at least 60 days before dismissing the case.
- 997 ii. The applicant may stay the dismissal by filing a motion  
 998 before the case is dismissed.
- 999 iii. The Hearing Examiner may grant the motion for good  
 1000 cause shown.
- 1001 b. The Hearing Examiner or the Hearing Examiner's designee  
 1002 must send a notice to all parties entitled to notice of the hearing

1003 when [an applicant withdraws] an application for a conditional  
1004 use is withdrawn.

1005 **E. Necessary Findings**

1006 1. To approve a conditional use application, the Hearing Examiner must  
1007 find that the proposed development:

1008 \* \* \*

1009 b. satisfies the requirements of the zone, use standards under  
1010 Article 59-3, and to the extent the Hearing Examiner finds  
1011 necessary to ensure compatibility, meets ~~[[applicable]]~~ the  
1012 intent of the general requirements under Article 59-6;

1013 \* \* \*

1014 **Sec. 11. DIVISION 59-7.6 is amended as follows:**

1015 **Division 7.6. Special Provisions**

1016 \* \* \*

1017 **Section 7.6.5. Fees**

1018 \* \* \*

1019 **B. Waiving or Refunding of Local Map Amendment Fees**

1020 1. The District Council may waive or refund any Local Map Amendment  
1021 required filing fee, in whole or in part, if:

- 1022 a. the application has not been advertised for public hearing;
- 1023 b. the application has been advertised for public hearing but the
- 1024 applicant files a request to withdraw it within 90 days after a
- 1025 master plan, Sectional Map Amendment, or Zoning Text
- 1026 Amendment that materially affects the property is approved, or
- 1027 condemnation proceedings or public acquisition of the subject
- 1028 property has been initiated; or

1029 c. the applicant shows that undue hardship will result if the refund  
1030 is not approved.

1031 2. The Hearing Examiner may refund a Local Map Amendment filing  
1032 fee of less than \$25,000, if any condition of Section 7.6.5.B.1 is  
1033 satisfied.

1034 **C. Waiving or Refunding of Conditional Use Fees**

1035 The Hearing Examiner may waive or refund a filing fee for a conditional use, in  
1036 whole or in part, if:

1037 1. the application has not been advertised for public hearing;

1038 2. the application has been advertised for public hearing but the  
1039 applicant files a request to withdraw it within 90 days after a master  
1040 plan, map amendment, or Zoning Text Amendment that materially  
1041 affects the property is approved;

1042 3. condemnation proceedings or public acquisition of the subject  
1043 property has been initiated;

1044 4. if an action of the County Executive, County Council, or an  
1045 administrative board or agency resolves or moots the issues pending  
1046 in the case, whether or not a public hearing has been held; or

1047 5. the applicant shows that undue hardship will result if a refund is not  
1048 approved.

1049 **[C]D. Waiving or Refunding of Variance Fees**

1050 If a variance is needed because of an error by a government agency in its approval  
1051 of a site plan, the Board of Appeals may waive or refund all or part of the filing  
1052 fee.

1053 \* \* \*

1054 **Sec. 12. Effective date.** This ordinance becomes effective 20 days after the  
1055 date of District Council adoption.

This is a correct copy of Council action.



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Sara R. Tenenbaum  
Clerk of the Council