

Article 59-3. Uses and Use Standards

Division 3.1. Use Table

Section 3.1.1. Key to Use Table

The Use Table (Section 3.1.6) in Division 3.1 identifies uses allowed in each zone. The key for this table is:

A. Permitted Use (P)

A "P" indicates that the use is permitted in the zone.

B. Limited Use (L)

An "L" indicates that the use is permitted if it meets the limited use standards in Division 3.2 through Division 3.7.

C. Conditional Use (C)

A "C" indicates that the use must meet the conditional use standards in Division 3.2 through Division 3.7 and requires approval by the Hearing Examiner under Section 7.3.1.

D. Blank Cell

A blank cell indicates that a use is prohibited in that zone.

Section 3.1.2. Use Classifications

A. Use Categories

1. There are 6 use categories: Agricultural, Residential, Civic and Institutional, Commercial, Industrial, and Miscellaneous.
2. When calculating density, any use in the Residential category counts toward residential density; any use in the Agricultural, Civic and Institutional, Commercial, Industrial, or Miscellaneous category counts toward nonresidential density.

B. Use Groups and Individual Uses

Under each category in the Use Table, some rows contain individual uses, while other rows represent a use group (a group of uses characterized by a single term or phrase). Where standards are provided for a use group, these standards apply to all individual uses within the group, in addition to any standards provided for individual uses.

C. Use Definitions

Where a use definition in Division 3.2 through Division 3.7 contains a list of included uses, these are to be considered typical or example uses, and not all-inclusive.

D. Grandfathered Uses Not Indicated with a "P", "L", or "C" in Section 3.1.6

1. Conditional Uses

- a. The following conditional uses that were lawfully existing on October 29, 2014 that are not indicated as permitted (P), limited (L), or conditional (C) in Section 3.1.6, Use Table, may, at the option of the owner, be continued, renovated, repaired, or enlarged under the conditional use requirements and Section 7.3.1, Conditional Use:

Educational Institution (Private) in the AR zone

- b. Any other conditional use that was lawfully existing on October 29, 2014 that is not indicated as permitted (P), limited (L), or conditional (C) in Section 3.1.6, Use Table, must satisfy Section 7.7.1, Exemptions.

2. Permitted Uses

- a. The following permitted uses that were lawfully existing on October 29, 2014 that are not indicated as permitted (P), limited (L), or conditional (C) in Section 3.1.6, Use Table, may, at the option of the owner, be continued, renovated, repaired, or enlarged:

Camp retreat, nonprofit in the RC zone

- b. Any other permitted use that was lawfully existing on October 29, 2014 that is not indicated as permitted (P), limited (L), or conditional (C) in Section 3.1.6, Use Table, must satisfy Section 7.7.1, Exemptions.

E. Uses Not Specifically Listed

1. Uses listed are general. DPS must determine whether a specific use falls within the general use or is similar in impact, nature, function and duration. Uses that are not allowed as permitted, limited, or conditional are prohibited, unless the use is deemed similar in impact, nature, function, and duration.
2. Some factors DPS may consider in determining if a proposed use is similar in impact, nature, function and duration to an existing use include but are not limited to:
 - a. The type of items or services sold and the nature and quantity of inventory on the premises;
 - b. Any processing done on the premises, including assembly, manufacturing, and distribution;
 - c. The amount and nature of any adverse impacts generated on the premises, including but not limited to noise, smoke, odor, illumination, glare, vibration, radiation, and fumes;
 - d. Any hazardous materials used on the premises;
 - e. The type and size of structures;
 - f. The number of employees and customers in relation to business hours and employment shifts; and
 - g. Parking requirements, turnover, and the potential for shared parking with other use types.

F. Use Requiring a License

When a use requires a license from the State or County to operate or when a service provider is required to have a license, the use is allowed only when the license is in effect.

(Legislative History: Ord. No. 18-01, § 1.)

Section 3.1.3. Uses Listed as Accessory

Uses listed under an accessory use group in the Use Table are uses that are incidental and subordinate to the principal use of a lot, site, or the principal building, and located on the same lot or site as the principal use or building.

Section 3.1.4. Temporary Uses

A. In General

Temporary uses

1. are temporary in nature;
2. are established for a fixed period of time with the intent to discontinue the use when that period of time is over;
3. do not involve the construction or alteration of any permanent structure; and
4. require a temporary use permit under Chapter 8, with the following exceptions.

a. Construction Dumpsters

One construction dumpster is permitted on-site in association with a valid building permit. The use of a dumpster past expiration of the building permit is prohibited.

b. Garage or Yard Sales

- i. A garage sale or yard sale is the sale, on residential property, of goods previously used by a resident of the property. This also includes all similar sales activities such as moving sales, estate sales, and community sale.
- ii. A garage sale is not a vending activity unless it exceeds the limits in Chapter 47.

c. Self-Storage Containers

- i. A storage container for household or other goods located in any yard is permitted for a maximum of 30 consecutive days twice per calendar year.
- ii. The storage container must be placed completely on-site (and cannot be placed in any public right-of-way).
- iii. The storage container must be placed on a paved surface.

B. Benefit Performance

A benefit performance, under Chapter 30 (Section 30-4), is permitted in any zone, including on property regulated by a conditional use, without requiring a modification of the conditional use plan. Unless the benefit performance is conducted on property that is occupied by a private club operating in compliance with this Chapter, a religious institution, a fire department, a public school, or a nationally chartered service or veterans organization not organized for gain or profit of any individual member of such groups, it must satisfy the following standards:

1. In any Residential, EOF, or NR zone, a benefit performance is a maximum of 15 days.
2. The benefit performance must be a minimum of 600 feet from any dwelling, measured from the perimeter of the performance area as listed in the license application, unless a minimum of 75% of the occupants of the dwellings within the 600 feet measurement consent to the performance in writing.

C. Landing of Rotorcraft

The takeoff and landing of rotorcraft may be allowed, in spite of any other provision of this Chapter, under the following circumstances:

1. The landing and use of air ambulances and other emergency rotorcraft is a permitted use in any zone during any emergency.
2. Emergency helipads for hospitals are a permitted use in any zone.
3. A rotorcraft may land for special events, such as athletic contests, holiday celebrations, parades, political campaigning, advertising promotions, fairs, carnivals or similar activities if:
 - a. the person or organization intending to use a rotorcraft has received approval from the Federal Aviation Administration and the Chief of Police; and
 - b. the Chief of Police refers each application to the Department of Fire and Rescue Services, Department of Environmental Protection, and DPS for review and recommendations before approving the time and place of the use.
4. The landing and takeoff areas for temporary helistops must satisfy the heliport surface dimensions recommended in the most recent Federal Aviation Administration Heliport Design Guide. An application for a temporary helistop must obtain approval by the Chief of Police, who must refer the application to the Department of Fire and Rescue Services, Department of Environmental Protection, and DPS for review and recommendations before making any decision on the application.

(Legislative History: Ord. No. 20-01, § 1.)

Section 3.1.5. Transferable Development Rights

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

1. Agricultural

Agricultural Auction Facility

2. Residential

- a. Attached Accessory Dwelling Unit
- b. Detached Accessory Dwelling Unit

- [illegible]

[illegible]

Animal Boarding and Care	3.5.1.B	C	C	C	C	C	C	C	C									L	L	L	L	C				L	L
Veterinary Office/Hospital	3.5.1.C	C	C	C	C	C	C	C	C	C	C							L	L	L	L	L	L			L	L
Communication Facility	3.5.2																										
Cable Communications System	3.5.2.A	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	C	C	C
Media Broadcast Tower	3.5.2.B	C	C	C		C	C	C	C	C	C	C				C	C	C				C		L	C	C	C
Telecommunications Tower	3.5.2.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	L	L	L/C	L/C	L	L/C	L	L
Eating and Drinking	3.5.3																										
Country Inn	3.5.3.A		L/C	L/C		L/C		L/C	L/C																		
Restaurant	3.5.3.B																	L	P	P	P	P	P	P	L		
Funeral and Interment Services	3.5.4																										
Cemetery	3.5.4.A	C	C	C	C	C																					
Crematory	3.5.4.B																										
Funeral Home, Undertaker	3.5.4.C	C				C		C	C	C									L	L	P			C			
Landscape Contractor	3.5.5	C	C	C	C	C	C	C	C																	L	P
Lodging	3.5.6																										
Bed and Breakfast	3.5.6.B	L	L	L	L	L	L	L	L	C	C							L	L		L	L					
Hotel, Motel	3.5.6																		P	P	P			P	P		
Medical and Dental	3.5.7																										
Clinic (Up to 4 Medical Practitioners)	3.5.7.A					L	L	L	L/C	L/C	L/C		L	L	L	L	L	L	P	P	P	P	P	P	P	P	P
Clinic (More than 4 Medical Practitioners)	3.5.7.B					L	L	L	L	L	L	L	L	L	L	L	L	L	P	P	P	C	P	P	P	P	P
Medical, Dental Laboratory	3.5.7.C																		P	P	P		P	P	P	P	
Office and Professional	3.5.8																										
Biohealth Priority Campus	3.5.8.E																			L				L	L		
Life Sciences	3.5.8.A																							P			
Office	3.5.8.B								C	C	C							P	P	P	P	P	P	L	P	L	L
Research and Development	3.5.8.C																		P	P			P	L	P	P	
Signature Business Headquarters	3.5.8.D																			L							
Parking	3.5.9																										
Structured Parking	3.5.9.B																		P	P	P			P	P	P	P
Surface Parking for Use Allowed in the Zone	3.5.9.C					L	L	L	L	L	L	L				L	L	L	L	L	L	L	L	L	L	L	L
Surface Parking for Commercial Uses in an Historic District	3.5.9.D	L	L			L	L	L	L		C	C				C	C	C									
Recreation and Entertainment	3.5.10																										
Adult Entertainment	3.5.10.A																					L					L
Campground	3.5.10.B	C	C	C			C																				
Conference Center	3.5.10.C																		P	P				P	P		C
Golf Course, Country Club	3.5.10.D		C	C		C	C	C	C	C	C	C	C	C	C	C	C	C				C			C		
Health Clubs and Facilities	3.5.10.E																	L	P	P	P	L	P	P	P	P	P
Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons)	3.5.10.F		C															C	L/C	P	P	C	C	C	P	P	
Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons)	3.5.10.G		C				C		C									C	C	P	C	C	C		C	C	
Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons)	3.5.10.H						C												C	P	C	C	C		C	C	
Shooting Range (Indoor)	3.5.10.I																				C					C	C
Shooting Range (Outdoor)	3.5.10.J	C	C	C																							
Retail Sales and Service	3.5.11																										
Combination Retail	3.5.11.A																		C	C	C	C					
Retail/Service Establishment (Up to 5,000 SF)	3.5.11.B																L	P	P	P	P	P	L	L	L	L	
Retail/Service Establishment (5,001 - 15,000 SF)	3.5.11.B																L	L	P	P	P	P	L	L	L	L	

Retail/Service Establishment (15,001 - 50,000 SF)	3.5.11.B																		L	P	P	P	P	L	L	L	L
Retail/Service Establishment (50,001 - 85,000 SF)	3.5.11.B																			L	L	P	P			L	L
Retail/Service Establishment (85,001 SF and Over)	3.5.11.B																			L	L	L	L			L	L
Rural Antique Shop	3.5.11.C	C	C	C	C	C		C	C																		
Rural Country Market	3.5.11.D	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C																		
Vape Shop	3.5.11.E																		L	L	L	L	L	L	L	L	L
Vehicle/Equipment Sales and Rental	3.5.12																										
Heavy Vehicle Sales and Rental	3.5.12.A																				L						P
Light Vehicle Sales and Rental (Indoor)	3.5.12.B																			L	P	P	L		L	P	P
Light Vehicle Sales and Rental (Outdoor)	3.5.12.C																			L	P	L	C		L	P	P
Vehicle Service	3.5.13																										
Automobile Storage Lot	3.5.13.A																					C				L	L
Car Wash	3.5.13.B																			C		L				L	L
Filling Station	3.5.13.C																			C	C	C	C	C	C	C	C
Repair (Commercial Vehicle)	3.5.13.D																									P	P
Repair (Major)	3.5.13.E																			C	C	L		C	L	P	P
Repair (Minor)	3.5.13.F																			L	L	L	C	C	L	P	P
Accessory Commercial Uses	3.5.14																										
Amateur Radio Facility (Up to 65 Feet in Height)	3.5.14.A	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
Amateur Radio Facility (Over 65 Feet in Height)	3.5.14.B	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
Antenna on Existing Structure	3.5.14.C	L	L	L	L	L	L	L	L	L	L	L				L	L	L	L	L	L	L	L	L	L	L	L
Commercial Kitchen	3.5.14.D									L	L																
Drive-Thru	3.5.14.E																			L/C	L/C	L/C	L/C		L/C	L/C	L/C
Helistop	3.5.14.F																					C		C	C	C	C
Lawn Maintenance Service	3.5.14.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		
Live/Work Unit	3.5.14.H																		P	P	P	P	P	P	P		
Temporary Commercial Uses	3.5.15																										
Construction Administration or Sales Office	3.5.15.A	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
Special Event Parking	3.5.15.B					L		L																			
Transitory Use	3.5.15.C	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
INDUSTRIAL																											
Animal Research Facility	3.6.1																							P			
Contractor Storage Yard	3.6.2																										L
Dry Cleaning Facility (Up to 3,000 SF)	3.6.3.A																			L	L	L	L	L		P	P
Dry Cleaning Facility (Over 3,000 SF)	3.6.3.B																									P	P
Manufacturing and Production	3.6.4																										
Artisan Manufacturing and Production	3.6.4.A																		P	P	P					P	P
Heavy Manufacturing and Production	3.6.4.B																										
Light Manufacturing and Production	3.6.4.C																		L	L	L				L	P	P
Medical/Scientific Manufacturing and Production	3.6.4.D																			L	P			P	P	P	P
Mining, Excavation	3.6.5	C	C	C					L/C																		
Transportation	3.6.6																										
Bus, Rail Terminal/Station	3.6.6.A																			L	L	P	P	L	P	P	P
Helipad, Heliport	3.6.6.B																					C		C	C	C	C
Railroad Tracks	3.6.6.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
Taxi/Limo Facility	3.6.6.D																			L	L	P	P	L		P	P
Utilities	3.6.7																										
Distribution Line (Above Ground)	3.6.7.A	P	P	P	P	L	L	L	L	L	L	L				P	P	P		L	L	P		P	L	P	P

Distribution Line (Below Ground)	3.6.7.B	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
Pipeline (Above Ground)	3.6.7.C	C	C	C		C		C	C	C	C				C	C	C	C	C	C	P		P	P	C	P
Pipeline (Below Ground)	3.6.7.D	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
Public Utility Structure	3.6.7.E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	L	L	C	C	P	C	C
Warehouse	3.6.8																									
Freight Movement	3.6.8.A																								P	P
Hazardous Material Storage	3.6.8.B																									
Mineral Storage	3.6.8.C																								L	L
Self-Storage	3.6.8.D																		C	L	L				P	P
Storage Facility	3.6.8.E																	L	L	L				L	P	P
Waste-Related	3.6.9																									
Landfill, Incinerator, or Transfer Station	3.6.9.A																									
Recycling Collection and Processing	3.6.9.B																								L	L
MISCELLANEOUS																										
Noncommercial Kennel	3.7.1	P	P	P	P	P	P	P	P	P	L	L	L													
Solar Collection System	3.7.2	L/C	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Wildlife, Game Preserve, and Other Conservation Areas	3.7.3	P	P	P																						
Accessory Miscellaneous Uses	3.7.4																									
Accessory Structures	3.7.4.A	L	L	L	L	L	L	L	L	L	L	L	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Accessory Use	3.7.4.B	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
Security Pavilion	3.7.4.C	L	L	L	L	L		L	L																	

(Legislative History: Ord. No. 18-02, § 1; Ord. No. 18-05, § 1; Ord. No. 18-08, § 2; Ord. No. 18-09, § 1; Ord. No. 18-13, § 1; Ord. No. 18-35, § 1; Ord. No. 18-39, § 2; Ord. No. 18-44, § 1; Ord. No. 18-45, § 2; Ord. No. 18-30, § 2; Ord. No. 18-51, § 2; Ord. No. 18-53, § 1; Ord. No. 19-03, § 1; Ord. No. 19-04, §1; Ord. No. 19-05, §1; Ord. No. 19-07, §1; Ord. No. 19-06, §2; Ord. No. 19-10, § 2; Ord. No. 19-14, § 1.; Ord. No. 19-17, § 1; Ord. No. 19-27, § 2; Ord. No. 19-32, § 1; Ord. No. 20-01, § 1; Ord. No. 20-03, § 2; Ord. No. 20-09, § 2; Ord. No. 20-12, § 1; Ord. No. 20-13, § 1; Ord. No. 20-14, § 1; Ord. No. 20-17, § 2.)

Division 3.2. Agricultural Uses

Section 3.2.1. Agricultural Auction Facility

A. Defined

Agricultural Auction Facility means any structure and land where farm-related merchandise is sold to a bidder.

B. Use Standards

Where an Agricultural Auction Facility is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

1. The minimum lot area is 5 acres.
2. The minimum setback of the auction facility (whether enclosed within a building or not) and the parking area is 50 feet from any lot line where the subject lot abuts property in residential use.
3. The Hearing Examiner may specify the types of goods to be auctioned.
4. Evening and weekend operations may be permitted under the limits established by the Hearing Examiner.
5. Where the subject lot abuts property in residential use, the noise level at the lot line must satisfy Chapter 31B.
6. The agricultural exemption of State law (Section 31B-14(c)) is not applicable.
7. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.
8. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

Section 3.2.2. Agricultural Processing

A. Defined

Agricultural Processing means any operation that transforms, packages, sorts, or grades farm products into goods that are used for intermediate or final consumption, including goods for non-food use, such as the products of forestry. Agricultural Processing includes milk plant, grain elevator, and mulch or compost production and manufacturing, but does not include Slaughterhouse (see Section 3.2.8, Slaughterhouse).

B. Use Standards

Where Agricultural Processing is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

1. The minimum lot area is 10 acres.
2. The minimum setback for an Agricultural Processing structure from any lot line is 75 feet.
3. The lot must front on and have access to a road built to Neighborhood Connector or higher standards unless processing materials are produced on-site.
4. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.

Section 3.2.3. Community Garden

A. Defined

Community Garden means land cultivated by a group of people to grow products for personal use or limited distribution and not for sale on-site. Community Garden includes cultivation of fruits, vegetables, flowers, ornamental plants, and beekeeping, but does not include Farming (see Section 3.2.6, Farming) or Urban Farming (see Section 3.2.9, Urban Farming).

B. Use Standards

Where a Community Garden is allowed as a limited use, it must satisfy the following standards:

- 1. The gross floor area of all structures, except greenhouses, is limited to 10% of the lot or parcel used for the Community Garden.
- 2. The maximum height for any accessory structure, including any pitched roof, is 12 feet.
- 3. Only manual or walk-behind mechanical equipment and practices commonly used in residential gardening may be used.

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.
 - ii. The maximum number of horses is determined by the minimum lot sizes in Section 3.2.4.B.1.a.
 - iii. State requirements for nutrient management concerning animal waste must be met.
 - d. Any Equestrian Facility that keeps or boards more than 10 horses must meet all nutrient management, water quality, and soil conservation standards of the County and State. A nutrient management plan prepared by a qualified professional and a soil conservation and water quality plan prepared by the Montgomery Soil Conservation District Board must be submitted through a letter of certification by the landowner to DPS, or other relevant agency. Enforcement of the nutrient management, water quality, and soil conservation plans is the responsibility of the State of Maryland. The landowner must obtain all plans within one year after starting operations.
 - e. Each building, show ring, paddock, outdoor arena, and manure storage area must be located at least 100 feet from any existing dwelling on an abutting property.
 - f. Amplified sound must satisfy Chapter 31B.
 - g. Any outdoor arena lighting must direct light downward using full cutoff fixtures; producing any glare or direct light onto nearby properties is prohibited. Illumination is prohibited after 10:00 p.m. on Friday or Saturday, and after 9:00 p.m. on Sunday through Thursday.
 - 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

- 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.

j. 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.

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

- a. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.
- b. In the AR, R, RC, and RNC zones:
 - i. The Equestrian Facility must not adversely affect abutting land uses or the surrounding road network.
 - ii. In evaluating the compatibility of an Equestrian Facility on the surrounding land uses, the Hearing Examiner must consider that the impact of an agricultural use on surrounding land uses in an Agricultural or Rural Residential zone does not necessarily need to be controlled as stringently as the impact in a Residential zone.
- c. In the RE-2, RE-2C, RE-1, and R-200 zones:
 - i. Any Equestrian Facility on less than 5 acres must establish through a pasture maintenance plan, feeding plan, and any other documentation the Hearing Examiner requires, that the site contains sufficient open pasture to ensure proper care of the horses and proper maintenance of the site.
 - ii. The Hearing Examiner may limit or regulate more stringently than limited use standards the following:
 - (a) the number of horses that may be kept or boarded;
 - (b) the number of horses that may be rented out for recreational riding or instruction;
 - (c) the number and type of equestrian events that may be held in a one-year period; and
 - (d) the hours of operation of any equestrian event or activity.
 - iii. The facility operator must satisfy the state requirements for nutrient management concerning animal waste.

(Legislative History: Ord. No. 19-39, § 3; Ord. No. 20-09, § 3.)

Section 3.2.5. Farm Supply or Machinery Sales, Storage, and Service

A. Defined

Farm Supply or Machinery Sales, Storage, and Service means the sales, storage, or service of farm supply materials and machinery used in farming for agricultural purposes or similar equipment service such as lawn care equipment repair. Farm Supply or Machinery Sales, Storage, and Service does not include sales, storage, or service of vehicles and other machinery not associated with farming.

B. Use Standards

1. Where Farm Supply or Machinery Sales, Storage, and Service is allowed as a limited use, it must satisfy the following standards:
 - a. If the subject lot abuts property in the AR zone, this use is limited to farm building supply and services that construct, stabilize, and repair farm accessory buildings, structures, and fences.
 - b. If the following standards are satisfied, the use is allowed:
 - i. the minimum lot area is 2.0 acres;
 - ii. it abuts or is located perpendicularly across a right-of-way from property in an Industrial zone;
 - iii. the impervious area of the site does not exceed any impervious area recommendation for the site in the master plan; and
 - iv. the subject lot does not abut property in the AR zone.
2. Where Farm Supply or Machinery Sales, Storage, and Service is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - a. The minimum lot area is 5 acres. The Hearing Examiner may require a larger area if warranted by the size and characteristics of the inventory.
 - b. The minimum setback from any lot line for parking, buildings, or inventory storage is 75 feet, except that the minimum setback from the street may be reduced to 50 feet if the Hearing Examiner finds that:
 - i. the confronting property is in an Agricultural or Rural Residential zone; and
 - ii. the smaller setback would be compatible with surrounding uses.
 - c. The Hearing Examiner may reduce the required number of parking spaces to a minimum of 2 spaces for every 1,000 square feet of gross floor area, excluding storage area, if it finds that the reduction can be made without adverse impact on abutting uses.

(Legislative History: Ord. No. 18-09, § 2.)

Section 3.2.6. Farming

Defined

Farming means the practice of agriculture on a property, and any associated buildings. Agriculture means the business, science, and art of cultivating and managing the soil; composting, growing, harvesting, and selling crops, and the products of forestry, horticulture, and hydroponics; breeding, raising, managing, or selling livestock, including horses, poultry, fish, game, and fur-bearing animals; dairying, beekeeping, and similar activities; and equestrian events and activities. Agriculture includes processing on the farm of an agricultural product to prepare the product for market and may cause a change in the natural form or state of the product. Farming includes the following accessory uses:

- A. Accessory agricultural processing and storage of products grown or raised on-site or on property owned, rented, or controlled by the farmer. Accessory agricultural processing includes a milk plant, grain elevator, on-farm animal slaughtering, and mulch or compost production and manufacturing.
- B. The sale of products of agriculture and agricultural processing, if products are produced on-site or on property owned, rented, or controlled by the farmer.
- C. The sale of horticultural products grown off-site, but kept on the farm temporarily on a maximum of 2 acres or 20% of the site, whichever is less.
- D. The delivery and installation of horticultural products grown on the farm.
- E. The production and manufacturing of mulch or compost where a maximum of 50% of the materials used in accessory processing can come from off-site sources.
- F. Accessory agricultural education and tourism activities conducted as a part of a farm's regular operations, with emphasis on hands-on experiences and events that foster increased knowledge of agriculture, including cultivation methods, animal care, water conservation, Maryland's farming history, the importance of eating healthy, and locally grown foods. Allowed activities include corn mazes, hay rides, and educational tours, classes, and workshops. The maximum footprint for any structure and the total footprint of all structures primarily used for education or tourism is limited to 10% of the total footprint square footage of all structures on the site used for agriculture. The property must have DPS approved sanitation facilities for this accessory use.

(Legislative History: Ord. No. 19-13, § 1.)

Section 3.2.7. Nursery

A. Nursery (Retail)

1. Defined

Nursery (Retail) means an establishment for selling plants and plant materials to the public, as well as garden supplies, equipment, and related items. Nursery (Retail) does not include Landscape Contractor (see Section 3.5.5, Landscape Contractor).

2. Use Standards

- a. Where Nursery (Retail) is allowed as a limited use, any Nursery (Retail) over 5,000 square feet of gross floor area, may be a maximum of 50% of the mapped FAR.
- b. Where a Nursery (Retail) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. The minimum lot area is 2 acres.
 - ii. The minimum building setback from any lot line is 50 feet; the minimum outdoor storage setback is 25 feet.
 - iii. The lot must front on and have access to a road built to Neighborhood Connector or higher standards. In the AR, R, and RC zones, this standard is not required if the Hearing Examiner finds that:
 - (a) Road access will be safe and adequate for the anticipated traffic to be generated; and
 - (b) The use at this location will not be an intrusion into an established residential neighborhood.
 - iv. Tools and equipment for sale must not be displayed outdoors.
 - v. The incidental sale of seasonal items is allowed.
 - vi. The sale of general hardware or power equipment is prohibited.
 - vii. The manufacture of mulch, other than by composting of plant material, is prohibited.

B. Nursery (Wholesale)

1. Defined

Nursery (Wholesale) means an establishment for selling plants and plant materials to other businesses, as well as garden supplies, equipment, and related items. Nursery (Wholesale) includes the sale of fertilizers, plant food, and pesticides that are produced off-site and storing such items. Nursery (Wholesale) does not include Landscape Contractor (see Section 3.5.5, Landscape Contractor).

2. Use Standards

Where a Nursery (Wholesale) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The minimum lot area is 2 acres.
- b. The minimum building setback from any lot line is 50 feet; the minimum outdoor storage setback is 25 feet.

(Legislative History: Ord. No. 19-39, § 3.)

Section 3.2.8. Slaughterhouse

A. Defined

Slaughterhouse means any structure and land where livestock raised off-site are slaughtered for commercial purposes.

B. Use Standards

Where a Slaughterhouse is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- 1. The minimum lot area is 20 acres.
- 2. The minimum setback from any lot line is 75 feet.
- 3. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.
- 4. The lot must front on and have direct access to a road built to Neighborhood Connector or higher standards.

Section 3.2.9. Urban Farming

A. Defined

Urban Farming means the cultivation of fruits, vegetables, flowers, and ornamental plants, as well as the limited keeping and raising of fowl or bees and the practice of aquaculture.

B. Use Standards

Where Urban Farming is allowed as a limited use, it must satisfy the following standards:

1. The minimum area for an urban farm is 2,500 square feet. This standard does not apply to the keeping of bees.
2. One fowl may be kept for every 1,000 square feet of lot or parcel area; roosters are prohibited.
3. Aquaculture is permitted in tanks or pools.
4. The maximum gross floor area of all structures, including aquaculture tanks or pools but excluding greenhouses, is 10% of the lot or parcel on any urban farm.
5. The minimum setback for accessory structures from any lot line is 15 feet.
6. The maximum height for any accessory structure, including any pitched roof, is 14 feet.
7. Only manual or walk-behind mechanical equipment and practices commonly used in residential gardening may be used.

Section 3.2.10. Accessory Agricultural Uses

A. Farm Airstrip, Helistop

1. Defined

Farm Airstrip, Helistop means an accessory take-off and landing facility for aircraft associated with farming operations.

2. Use Standards

Where a Farm Airstrip, Helistop is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. Only one aircraft is permanently parked at the airstrip or helistop.
- b. The applicant must obtain a favorable air space determination from the Federal Aviation Administration (FAA) in response to an application filed on Form 33 FAA 7480.1 titled "Notice of Proposed Landing Area Established," or whatever form number and title the FAA may require.
- c. The minimum setback from any lot line is 1,000 feet.
- d. The aircraft using the airstrip or helistop must aid farming operations.
- e. The airstrip or helistop must be unpaved.
- f. Screening under Division 6.5 is not required.

B. Farm Alcohol Production

1. Defined

Farm Alcohol Production means the transformation of agricultural products into alcoholic beverages. Farm Alcohol Production includes wineries, cideries, breweries, or distilleries on farms. Farm Alcohol Production may include other activities unrelated to the production and sale of alcohol or farming under certain circumstances.

2. Use Standards

- a. Where Farm Alcohol Production is allowed as a limited use, it must satisfy the following standards:
 - i. The production capacity and associated activities of the alcoholic beverage must comply with the license issued by the State of Maryland Comptroller's Office.
 - (a) A brewery must have a Class 8 Farm Brewery License;
 - (b) A winery must have a Class 4 Limited Winery License; and
 - (c) A distillery must have a Class 1 Distillery License.
 - ii. Some ingredients used in the production process must be grown on site.
 - iii. Wineries and cideries must have at least 5 acres of fruit used in alcohol production grown on site or on abutting or confronting property rented by the producer, and:
 - (a) have at least 20 acres of grapes or other fruit in cultivation on property they own, rent, or control; or
 - (b) source a majority of their grapes or other fruit from Maryland.
 - iv. Breweries and distilleries must source a majority of their ingredients, if available at competitive prices, from Regionally-Grown Products. At least 1.0 acre of ingredients must be grown on site for use in the alcohol production process.
 - v. A plan with a schedule to increase the use of local Montgomery County agricultural products in the production process must be submitted to the Department of Permitting Services.
 - vi. The underlying land must be classified as agricultural by the State Department of Assessments and Taxation and the facility must be an accessory use of the farm.
 - vii. Subject to all licensing requirements, the facility may:

- (a) operate an on-site tasting room for its products; and
 - (b) prepare and sell food to the extent allowed by the State alcohol manufacturing license.
- viii. Events and activities that are normal and customary to the regular operations of a winery, cidery, brewery, and distillery, including membership-related events and traditional festivals related to agriculture or the business of alcohol production, are allowed without a limitation on the number of guests. A maximum of 5 days of events that require an entrance ticket or a cover charge is allowed each calendar year.
- ix. Weddings, corporate retreats, and other events accessory to the production of alcohol are allowed:
- (a) Except as allowed under subsection (c), the maximum number of participants at any event is 225. There is no limit on the number of events with 100 participants or fewer. The total maximum number of days of events in a calendar year is 50 for events with more than 100 participants.
 - (b) A written log of all events must be kept by the holder of the alcohol production license. That log must be available for inspection by the Department of Permitting Services.
 - (c) As a conditional use under Section 7.3.1, the Hearing Examiner may approve additional days of large public events and events with greater numbers of participants for either normal and customary events or other accessory events.
- x. If any structure is used for activities under subsection vii, viii, or ix, the structure must satisfy all building, life safety, fire, and sanitation code requirements.
- xi. Illumination at the property line must be limited to 0.1 footcandles or less.
- xii. All parking must be accommodated on site.
- xiii. Noise levels must satisfy Chapter 31B standards.
- xiv. Any new building or surface parking area used for Farm Alcohol Production and related events must be located at least 100 feet from an existing dwelling unit on an abutting property.
- xv. In the AR zone, except for sites where the property owner obtained a Maryland alcohol producer's license before October 2, 2018, the minimum site area for breweries and distilleries is 25 acres.
- xvi. In the RE-1 and RE-2 zones, for breweries, distilleries, and wineries:
- (a) the minimum site area is 25 acres;
 - (b) the site must be located in an area classified as sewer category 6 in the Ten Year Comprehensive Water Supply and Sewerage Systems Plan; and
 - (c) access must be directly from a roadway classified in the approved Master Plan of Highways and Transitways as a Neighborhood Connector or higher roadway.

b. Where Farm Alcohol Production is allowed as a conditional use, it must satisfy the standards under Section 7.3.1.

C. Farm Market, On-site

1. Defined

Farm Market, On-site means the display and retail sale of agricultural products produced on the farm where the farm market is located, or agricultural products produced on another farm under the control of the owner or operator of that farm market. A limited portion of the sales may include agricultural products produced on another farm. A Farm Market, On-site may include farm food products certified as non-potentially hazardous by the Department of Health and Human Services.

2. Use Standards

Where a Farm Market, On-site is allowed as a limited use, it must satisfy the following standards:

- a. In the AR, R, RC, RNC, RE-2, RE-2C, RE-1, and R-200 zones:
 - i. The minimum setback for the sale and display area is 25 feet from the paved edge of the roadway.
 - ii. Firewood sold at a Farm Market, On-site must be cut and split on the farm where the wood is harvested.
 - iii. A maximum of 25% of the Farm Market, On-site display and sales area may be used for agricultural products not produced on a farm under the control of the owner or operator of the Farm Market, On-site. In the event of crop failure due to drought, insect damage, disease, or other cause beyond the control of the owner or operator of the Farm Market, On-site DPS may, upon the recommendation of the Department of Economic Development and the Montgomery County Agricultural Advisory Committee and, for a limited period of time, permit more than 25% of the Farm Market, On-site display and sales area to be used for agricultural products not produced on a farm under the control of the owner or operator of the Farm Market, On-site.
- b. In the R-90, R-60, R-40, TLD, TMD, THD, R-30, R-20, R-10, CRN, CRT, CR, GR, NR, LSC, EOF, IL, and IM zones:
 - i. All of the agricultural products for display and retail sale must be produced on-site.
 - ii. The minimum setback for the sale and display area is 25 feet from any lot line where the subject lot abuts property in a Residential zone.

(Legislative History: Ord. No. 18-51, § 3; Ord. No. 19-03, § 2 ; Ord. No. 19-39, § 3 .)

Section 3.2.11. Temporary Agricultural Uses

A. Agricultural Vending

1. Defined

Agricultural Vending means the sale of produce by a vendor who is a certified agricultural producer as defined in Chapter 47.

2. Use Standards

Where Agricultural Vending is allowed as a limited use, it must satisfy the following standards:

- a. A temporary use permit from DPS is required.
- b. The maximum time the structure or vehicle used for sales may remain in the same location is 24 hours.
- c. In the Residential, CRN, Employment, IL, and IM zones:
 - i. The minimum setback from any dwelling is 100 feet.
 - ii. The site must:
 - (a) be a minimum of 2 acres;
 - (b) be used for nonresidential purposes; and
 - (c) front on a roadway with a minimum of 2 travel lanes.

B. Seasonal Outdoor Sales

1. Defined

Seasonal Outdoor Sales means the temporary sales of seasonal farm products offered annually for a limited period of time, such as the sale of pumpkins and evergreen trees.

2. Use Standards

Where Seasonal Outdoor Sales is allowed as a limited use, it must satisfy the following standards:

- a. A temporary use permit from DPS is required. Temporary use permit duration is a maximum of 45 days. A maximum of 2 temporary permits can be issued per site annually.
- b. A plan must be submitted by the applicant demonstrating adequate vehicular circulation, parking, and queuing.
- c. Any obstruction that adversely affects visibility at an intersection or to any Seasonal Outdoor Sales driveway is prohibited.
- d. Evergreen trees may only be sold beginning the first Saturday following Thanksgiving Day through December 24th, and are exempt from Section 3.2.11.B.2.b and Section 3.2.11.B.2.e.ii.
- e. In the Agricultural, Rural Residential, Residential, LSC, and EOF zones:
 - i. The property must be vacant or used for nonresidential purposes.
 - ii. Except where Seasonal Outdoor Sales occur on the site of a Religious Assembly use, the site must front on and have access to a road built to Neighborhood Connector or higher standards.

(Legislative History: Ord. No. 18-51, § 3; Ord. No. 19-39, § 3.)

Division 3.3. Residential Uses

Section 3.3.1. Household Living

A. Defined, In General

Household Living means the residential occupancy of a dwelling unit by a household for 30 consecutive days or longer.

B. Single-Unit Living

1. Defined

Single-Unit Living means one dwelling unit contained in a detached house building type.

2. Use standards

Where Single-Unit Living is allowed as a limited use, it must satisfy the following standards:

- a. In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.
- b. In the LSC zone all Household Living uses are limited to 30% of the maximum allowed FAR mapped on the subject site.

C. Two-Unit Living

1. Defined

Two-Unit Living means 2 dwelling units contained in a duplex building type.

2. Use Standards

Where Two-Unit Living is allowed as a limited use, it must satisfy the following standards:

- a. In the RE-2C and RE-1 zones, Two-Unit Living is permitted as part of a development including optional method Moderately Priced Dwelling Units (see Division 4.4) if it is
 - i. served by public sewer service; or
 - ii. designated for sewer service in the applicable master plan.
- b. In the R-200 zone, Two-Unit Living is permitted as part of a development including optional method Moderately Priced Dwelling Units (see Division 4.4).
- c. In the R-90 and R-60 zones, Two-Unit Living is permitted as part of a development including optional method Moderately Priced Dwelling Units or optional method Cluster Development (see Division 4.4).
- d. In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.

- e. In the LSC zone all Household Living uses are limited to 30% of the maximum allowed FAR mapped on the subject site.

D. Townhouse Living

1. Defined

Townhouse Living means 3 or more dwelling units in a townhouse building type.

2. Use Standards

- a. Where Townhouse Living is allowed as a limited use, it must satisfy the following standards:
 - i. In the RE-2C and RE-1 zones, Townhouse Living is permitted as part of a development including optional method Moderately Priced Dwelling Units (see Division 4.4) if it is:
 - (a) served by public sewer service; or
 - (b) designated for sewer service in an applicable master plan.
 - ii. In the R-200 and R-40 zones, Townhouse Living is permitted as part of a development including optional method Moderately Priced Dwelling Units (see Division 4.4).
 - iii. In the R-90 and R-60 zones, Townhouse Living is permitted as part of the following:
 - (a) a development including optional method Moderately Priced Dwelling Units (see Division 4.4);
 - (b) optional method cluster development (see Division 4.4) that is a minimum of 10 acres in size; or
 - (c) optional method cluster development (see Division 4.4) that is a minimum of 3 acres or more in size and recommended in a master plan.
 - iv. In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.
 - v. In the LSC zone, all Household Living uses are limited to 30% of the maximum allowed FAR mapped on the subject site.
- b. Where Townhouse Living is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. In the RE-1, R-200, R-90, and R-60 zones:
 - (a) All buildings and structures must meet or exceed the Level II Accessibility Standards established by Section 52-106 and detailed in Section 52-107.
 - (b) Public bus service must be available on a road abutting the site.
 - (c) A Metro Station must be within 2 miles of the site.
 - (d) Public recreation or park facilities must be within 1,000 feet of the site.
 - (e) A grading plan must demonstrate that the post-construction site will have a slope less than 5%.
 - (f) The minimum tract size is 2 acres.
 - (g) The density limitations and development standards of the TMD zone under optional method (Section 4.4.12.C) apply in spite of any other limitation in this Chapter.
 - (h) Reducing the number of required parking spaces through a parking waiver under Section 6.2.10 is prohibited.
 - (i) A minimum of one parking space for each dwelling unit must satisfy the dimensional standards for handicapped-accessible vehicle parking and a minimum 8-foot-wide access aisle required by the State.
 - ii. In the Residential Detached zones:
 - (a) Townhouse Living must be located on property used for Section 3.4.10, Religious Assembly or Section 3.4.5, Educational Institution (Private). This may include confronting and abutting properties.
 - (b) The maximum building height and principal building setbacks of any building used for Townhouse Living must meet the standard method development standards of the townhouse building type in the R-30 zone under Section 4.4.14.B.
 - (c) The minimum side setback is 25 feet to abutting lots and parcels not included in the application.
 - (d) A minimum of 35% common open space is required.
 - (e) The site must not receive water and sewer access through a Private Institutional Facilities (PIF) approval.
 - (f) The dwelling units must meet one of the following affordability thresholds:
 - (1) at least 50% of the units are built under a government regulation or binding agreement that limits the price charged for at least 30 years and affordable to households earning 60 percent or less of Area Median Income (AMI);
 - (2) at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 10% of the total units affordable to households earning 30% of Area Median Income (AMI) or below and at least 20% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A;
 - (3) at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 20% of the total units affordable to households earning 50% of Area Median Income (AMI) or below and at least 10% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A; or
 - (4) the project receives an award of either 4% or 9% Low-Income Housing Tax Credits (LIHTC) from the Maryland Department of Housing and Community Development (DHCD).

(g) The maximum residential density is determined by the Hearing Examiner under the development standards of Section 3.3.1.D.2.b.ii. without regard to any other limitation in this Chapter.

(h) The Hearing Examiner may modify the height, density, coverage, and parking standards to be compatible with surrounding uses.

E. Multi-Unit Living

1. Defined

Multi-Unit Living means dwelling units in an apartment or multi use building type. Multi-Unit Living includes ancillary offices to manage, service, and maintain the development.

2. Use Standards

a. Where Multi-Unit Living is allowed as a limited use, it must satisfy the following standards:

i. In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.

ii. In the LSC zone all Household Living uses are limited to 30% of the maximum allowed FAR mapped on the subject site.

b. Where Multi-Unit Living is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

i. Where allowed as a conditional use, Multi-Unit Living must be located on property used for Section 3.4.10, Religious Assembly or Section 3.4.5, Educational Institution (Private). This may include confronting and abutting properties.

ii. The maximum building height of any building used for Multi-Unit Living is 60 feet.

iii. Principal building setbacks of any building used for Multi-Unit Living must meet the standard method development standards of the apartment building type in the R-30 zone under Section 4.4.14.B.3.

iv. The minimum side setback is 25 feet to abutting lots and parcels not included in the application.

v. A minimum of 35% common open space is required.

vi. The site must not receive water and sewer access through a Private Institutional Facilities (PIF) approval.

vii. The dwelling units must meet one of the following affordability thresholds:

(a) at least 50% of the units are built under a government regulation or binding agreement that limits the price charged for at least 30 years and affordable to households earning 60 percent or less of Area Median Income (AMI);

(b) at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 10% of the total units affordable to households earning 30% of Area Median Income (AMI) or below and at least 20% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A;

(c) at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 20% of the total units affordable to households earning 50% of Area Median Income (AMI) or below and at least 10% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A; or

(d) the project receives an award of either 4% or 9% Low-Income Housing Tax Credits (LIHTC) from the Maryland Department of Housing and Community Development (DHCD).

viii. The maximum residential density is determined by the Hearing Examiner under the development standards of Section 3.3.1.E.2.b., without regard to any other limitation in this Chapter.

ix. The Hearing Examiner may modify the height, density, coverage, and parking standards to be compatible with surrounding uses.

(Legislative History: Ord. No. 18-02, § 2; Ord. No. 18-08, § 3; Ord. No. 18-30, § 3; Ord. No. 18-50, § 1; Ord. No. 20-12, § 2.)

Section 3.3.2. Group Living

A. Defined, In General

Group Living means the residential occupancy of a structure by a group of people that does not meet the definition of any Household Living use under Section 3.3.1.

B. Commercial to Residential Reconstruction

1. Defined

Commercial to Residential Reconstruction means a vacant building that is at least 2 stories high and is converted to or demolished and rebuilt as a residential building that qualifies as Townhouse Living under Section 3.3.1.D. or Multi-Unit Living under Section 3.3.1.E.

a. In the EOF zone, vacancy is defined as a building that has no tenants in at least 50% of the building at the time of application and qualifies as an Office use under Section 3.5.8.B., which may include ancillary nonresidential uses, or a Retail use under Section 3.5.11.

b. In the GR, NR, and Commercial/Residential zones, vacancy is defined as a building that has no tenants in at least 50% of the building at the time of application and qualifies as an Office use under Section 3.5.8.B., which may include ancillary nonresidential uses.

c. Notwithstanding the underlying zone, in the RSC Overlay Zone, vacancy is defined as a building that has no tenants in at least 50% of the building at the time of application and qualifies as an Office use under Section 3.5.8.B., which may include ancillary nonresidential uses, or a Retail use under Section 3.5.11.

2. Exemptions

a. A sketch plan and a site plan are not required for a Commercial to Residential Reconstruction if the Planning Board approves a Commercial to Residential Reconstruction expedited approval plan under Section 7.3.5.

b. Development of a Commercial to Residential Reconstruction should proceed under the standards of Chapter 50 and the underlying zone, including any overlay zones, except as modified by Section 3.3.2.B. and in conformance with the hearing and review schedule in Sections 7.3.5.

c. After an expedited approval plan is approved, subsequent additions or expansions of the Commercial to Residential Reconstruction, in any size or amount, will be processed under Section 7.3.5 as amendments.

3. Use Standards

- a. Commercial FAR limits on the subject property may be reallocated to residential FAR if the total FAR does not exceed the maximum total mapped FAR of the property and the building height does not exceed the maximum mapped height, including any increases in each allowed by this Chapter.
- b. In a red policy area, Commercial to Residential Reconstruction must be in an Apartment Building type that satisfies Section 4.1.3.D.
- c. If not in a red policy area, Commercial to Residential Reconstruction must be in a Townhouse building type that satisfies Section 4.1.5.C. or in an Apartment Building type that satisfies Section 4.1.3.D.
- d. Gross floor area of all non-residential uses is limited to 30% of the gross floor area on the subject site.

C. Dormitory

1. Defined

Dormitory means a building or portion of a building used for sleeping purposes in connection with a school, college, or other institution.

2. Use Standards

Where Dormitory is allowed as a limited use, a site plan under Section 7.3.4 is required.

D. Independent Living Facility for Seniors or Persons with Disabilities

1. Defined

Independent Living Facility for Seniors or Persons with Disabilities means a building or collection of buildings, of any building type, containing dwelling units for senior adults or persons with disabilities. An Independent Living Facility for Seniors or Persons with Disabilities may include on-site support services such as meal preparation and service, day care, personal care, nursing or therapy, or any service to the senior adult or disabled population of the community that is an ancillary part of one of these operations. Support services may be located either in the same structure as the dwelling units or in a structure physically separated from the independent living dwelling units.

2. Use Standards

- a. Where an Independent Living Facility for Seniors is allowed as a limited use, it must satisfy the following standards:
 - i. The facility must meet all applicable Federal, State, and County licensure, certificate, and regulatory requirements.
 - ii. Resident staff necessary for the operation of the facility are allowed to live on-site.
 - iii. Occupancy of a dwelling unit is restricted to the following:
 - (a) a senior adult, as defined in Section 1.4.2, Defined Terms;
 - (b) other members of the household of a senior adult, regardless of age;
 - (c) a resident care-giver, if needed to assist a senior resident; or
 - (d) a person authorized to occupy housing provided under any federal or state program that is specifically designed and operated to assist seniors as defined in that program.
 - (e) If imposing age restrictions that would limit occupancy otherwise allowed by this Subsection, the facility must only impose age restrictions that satisfy at least one type of exemption for housing for older persons from the familial status requirements of the federal "Fair Housing Act," Title VIII of the Civil Rights Act of 1968, as amended, or the state Fair Housing Act, Subtitle 7 of Title 20 of the Annotated Code of Maryland, State Government Article, as amended.
- b. Where an Independent Living Facility for Persons with Disabilities is allowed as a limited use, it must satisfy the following standards:
 - i. The facility must meet all applicable federal, state, and County licensure, certificate, and regulatory requirements.
 - ii. Resident staff necessary for the operation of the facility are allowed to live on-site.
 - iii. Occupancy of a dwelling unit is restricted to the following:
 - (a) a person with disabilities, as defined in Section 1.4.2, Defined Terms;
 - (b) other members of the household of a person with a disability, regardless of age;
 - (c) a resident caregiver, if needed to assist a resident with a disability; or
 - (d) a person authorized to occupy housing provided under any federal or state program that is specifically designed and operated to assist persons with disabilities as defined in that program.
- c. Where an Independent Living Facility for Seniors or Persons with Disabilities is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards, Section 7.3.1, Conditional Use, and the following standards:
 - i. The site or the proposed facility has adequate accessibility to or provides on-site public transportation, medical service, shopping areas, recreation and other community services frequently desired by senior adults or persons with disabilities. The application must include a vicinity map showing major thoroughfares, public transportation routes and stops, and the location of commercial, medical and public services within a one-mile radius of the proposed facility.
 - ii. The Hearing Examiner may restrict the availability of ancillary services to nonresidents and specify the manner in which this is publicized. Retail facilities may be included for the exclusive use of the residents of the building.
 - iii. A minimum of 15% of the dwelling units is permanently reserved for households of very low income, or 20% for households of low income, or 30% for households of MPDU income, and otherwise satisfies Chapter 25A. If units are reserved for households of more than one of the specified income

levels, the minimum percentage must be determined by agreement with the Department of Housing and Community Affairs under Executive regulations. Income levels are defined in Section 1.4.2, Defined Terms.

iv. The maximum building height of an Independent Living Facility for Seniors or Persons with Disabilities is the height of the applied-for building type in the underlying zone under the standard method of development, except for the apartment building type which may be up to 60 feet. If a particular building type is not allowed under the standard method of development, the maximum height is the height of a Conditional Use in the underlying zone. The maximum density is determined by the Hearing Examiner under the development standards of Section 3.3.2.D.2.c.vi through Section 3.3.2.D.2.c.ix, without regard to any other limitation in this Chapter.

v. Height, density, coverage, and parking must be compatible with surrounding uses and the Hearing Examiner may modify height, density, coverage, and parking to maximize the compatibility of buildings with the residential character of the surrounding neighborhood.

vi. The minimum front setback to the street for a lot abutting a property not included in the application is equal to the front setback for a detached house in the underlying zone under the standard method of development. Except for an access driveway, this front setback area must be maintained as green area.

vii. The minimum side and rear setback is 25 feet to abutting lots not included in the application.

viii. The minimum green area is 50%.

ix. Principal building setbacks for all building types must meet the minimum setbacks required under the standard method of development for the subject building type in the R-30 zone (see Section 4.4.14.B.3, Placement).

E. Personal Living Quarters

1. Defined, In General

Personal Living Quarters means any building or portion of a building containing more than 5 individual living units, with shared cooking facilities and may have shared sanitation facilities. Personal Living Quarters does not include Multi-Unit Living or Hotel, Motel.

2. Use Standards

a. Personal Living Quarters (Up to 50 Individual Living Units)

Where Personal Living Quarters (Up to 50 Individual Living Units) are allowed as a limited use, it must satisfy the following standards:

- i. Each individual living unit must have a minimum gross floor area of 150 square feet and a maximum gross floor area of 385 square feet.
- ii. Each individual living unit is prohibited from having complete cooking facilities such as a stove, oven, or similar device, but may contain equipment for incidental food preparation, such as small portable kitchen appliances.
- iii. Each individual living unit may contain separate sanitation facilities.
- iv. Each individual living unit must have a rental agreement with a minimum lease term of at least 30 days. Copies of the rental agreement must be available for inspection by, and provided upon demand to the County.
- v. The maximum number of individual living units per acre is as follows:
 - (a) in the R-30 zone, 29 units per acre;
 - (b) in the R-20 zone, 43 units per acre; and
 - (c) in the R-10 zone, 87 units per acre.
- vi. If individual living units are constructed on a lot or included in a building with complete dwelling units, the density standard for dwelling units in the zone applies to that portion of the lot that contains complete dwelling units.

b. Personal Living Quarters (Over 50 Individual Living Units)

Where Personal Living Quarters (Over 50 Individual Living Units) are allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards for Personal Living Quarters (Up to 50 Individual Living Units), Section 7.3.1, Conditional Use, and the following standards:

- i. An applicant for Personal Living Quarters must submit evidence which shows how the maintenance and management of the Personal Living Quarters will be provided. The Hearing Examiner may require on-site management and maintenance.
- ii. Common open space may be required by the Hearing Examiner as follows:
 - (a) 10% of the gross floor area of the Personal Living Quarters if the smallest individual living unit has a gross floor area of less than 200 square feet; and
 - (b) 5% of the gross floor area of the Personal Living Quarters if the smallest individual living unit has a gross floor area of 200 square feet or greater.

F. Residential Care Facility

1. Defined, In General

Residential Care Facility means a group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual, in which:

- a. the facility must meet all applicable Federal, State, and County certificate, licensure, and regulatory requirements;
- b. resident staff necessary for operation of the facility are allowed to live on-site; and
- c. the number of residents includes members of the staff who reside at the facility, but does not include infants younger than 2 months old.

Residential Care Facility includes a nursing home, an assisted living facility, a Continuing Care Retirement Community, a hospice, a group home, and a Senior Care Community. Residential Care Facility does not include a Hospital (see Section 3.4.6, Hospital) or Independent Living Facility for Seniors or Persons with Disabilities (see Section 3.3.2.D, Independent Living Facility for Seniors or Persons with Disabilities).

2. Use Standards

a. Residential Care Facility (Up to 8 Persons)

Where a Residential Care Facility (Up to 8 Persons) is allowed as a limited use it may be prohibited under Section 3.1.5, Transferable Development Rights.

b. Residential Care Facility (9 - 16 Persons)

i. Where a Residential Care Facility (9 - 16 Persons) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.

ii. Where a Residential Care Facility (9 - 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- (a) A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.
- (b) Height, density, coverage, and parking standards must be compatible with surrounding uses and the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.
- (c) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

c. Residential Care Facility (Over 16 Persons)

i. Where a Residential Care Facility (Over 16 Persons) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.

ii. Where a Residential Care Facility (Over 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- (a) The facility may provide ancillary services such as transportation, common dining room and kitchen, meeting or activity rooms, convenience commercial area or other services or facilities for the enjoyment, service or care of the residents. Any such service may be restricted by the Hearing Examiner.
- (b) A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children who will use the facility.
- (c) Where residential dwelling units are provided
 - (1) the maximum residential density per lot area is 15 units per acre or the maximum density allowed in the zone, whichever is greater; and
 - (2) the minimum green area is 50%.
- (d) Where facility size is based on the number of beds, not dwelling units, the following lot area is required:
 - (1) In the R, RC, and RNC zones, 2,000 square feet per bed or 5 acres, whichever is greater.
 - (2) In all other zones, the minimum lot area is 2 acres or the following, whichever is greater:
 - (A) in RE-2, RE-2C, RE-1, and R-200 zone: 1,200 square feet per bed;
 - (B) in R-60, R-90, and R-40 zone: 800 square feet per bed;
 - (C) in TLD, TMD, THD, R-30, and R-20 zone: 600 square feet per bed; and
 - (D) in R-10: 300 square feet per bed.
- (e) Principal building setbacks for all building types must meet the minimum setbacks required under the standard method of development for the subject building type in the R-30 zone (see Section 4.4.14.B.3, Placement).
- (f) The minimum side setback is 20 feet to abutting lots not included in the application.
- (g) Independent dwelling units must satisfy the MPDU provisions of Chapter 25 (Section 25.A-5).
- (h) In a Continuing Care Retirement Community and a Senior Care Community, occupancy of any independent dwelling unit is restricted to persons 62 years of age or older, with the following exceptions:
 - (1) the spouse of a resident, regardless of age;
 - (2) another relative of a resident, 50 years of age and older;
 - (3) the resident widow, widower, or other surviving relative of a resident who dies while residing at the Continuing Care Retirement Community or the Senior Care Community is allowed to remain, even though the resident widow, widower, or other surviving relative has not reached the age of 62.

A minimum of 80% of the dwelling units must be occupied by at least one person per unit who is 55 years of age or older.

(i) Height, density, coverage, and parking standards must be compatible with surrounding uses; the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.

(j) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

(Legislative History: Ord. No. 18-08, §3; Ord. No. 18-24, §1; Ord. No. 18-52, §1; Ord. No. 19-16, § 2; Ord. No. 19-20, § 1; Ord. No. 20-14, § 2; Ord. No. 20-17, § 3.)

Section 3.3.3. Accessory Residential Uses

A. Accessory Dwelling Unit, In General

1. Defined, In General

Accessory Dwelling Unit or Accessory Apartment means a second dwelling unit that is subordinate to the principal dwelling. An Accessory Dwelling Unit

2. Use Standards for all Accessory Dwelling Units

Where an Accessory Dwelling Unit is allowed as a limited use, it must satisfy the following standards:

- a. Only one Accessory Dwelling Unit is permitted for each lot.
- b. The Accessory Apartment was approved as a special exception before May 20, 2013 and satisfies the conditions of the special exception approval or satisfies Subsection c
- c. If the Accessory Dwelling Unit does not satisfy Subsection b, the Accessory Dwelling Unit must be licensed by the Department of Housing and Community Affairs under Chapter 29 (Section 29-19); and
 - i. the Accessory Dwelling Unit must have the same street address as the principal dwelling;
 - ii. except for lots located within 1 mile of any Metrorail, Purple Line, or MARC Rail Station, either:
 - (a) one on-site parking space is provided in addition to any required on-site parking space for the principal dwelling; however, if a new driveway must be constructed for the Accessory Dwelling Unit, then a total of at least two on-site parking spaces must be provided; or
 - (b) the Hearing Examiner finds under the waiver in Section 29-26(b) that there is adequate on-street parking;
 - iii. the maximum number of occupants is limited by Chapter 26 (Section 26-5); however, the total number of occupants residing in the Accessory Dwelling Unit who are 18 years or older is limited to 2;
 - iv. the maximum footprint of an Accessory Dwelling Unit, in combination with other structures on the site, is limited by the total lot coverage limit in the underlying zone and the maximum gross floor area of the unit; and
 - v. unless modified by the use standards for an Accessory Dwelling Unit, an Accessory Dwelling Unit must comply with the setback, height, and building lot coverage standards of an accessory structure in the underlying zone.
- d. An Accessory Dwelling Unit must not be located on a lot where any short-term rental Residential use exists or is licensed.
- e. In the Agricultural and Rural Residential zones, an Accessory Dwelling Unit is excluded from any density calculations. If the property associated with an Accessory Dwelling Unit is subsequently subdivided, the Accessory Dwelling Unit is included in the density calculations.
- f. Screening under Division 6.5 is not required.
- g. In the AR zone, any Accessory Dwelling Unit may be prohibited under Section 3.1.5, Transferable Development Rights.

B. Attached Accessory Dwelling Unit

1. Defined

Attached Accessory Apartment or Accessory Dwelling Unit means a second dwelling unit that is part of a detached house building type and includes facilities for cooking, eating, sanitation, and sleeping. An Attached Accessory Dwelling Unit is subordinate to the principal dwelling.

2. Use Standards

Where an Attached Accessory Dwelling Unit is allowed as a limited use, it must satisfy the use standards for all Accessory Dwelling Units under Section 3.3.3.A.2 and the following standards:

- a. A separate entrance is located:
 - i. on the side or rear of the dwelling;
 - ii. at the front of the principal dwelling, if the entrance existed before May 20, 2013; or
 - iii. at the front of the principal dwelling, if it is a single entrance door for use of the principal dwelling and the Attached Accessory Dwelling Unit.
- b. The maximum gross floor area for an Attached Accessory Dwelling Unit, including any floor area used for an Accessory Dwelling Unit in a cellar, must be:
 - i. 1,200 square feet of gross floor area; or
 - ii. if the basement or cellar is used for the Attached Accessory Dwelling Unit, the gross floor area for the Attached Accessory Dwelling Unit may equal the square footage area of the basement or cellar.

C. Detached Accessory Dwelling Unit

1. Defined

Detached Accessory Apartment or Accessory Dwelling Unit means a second dwelling unit that is located in a separate accessory structure on the same lot as a detached house building type and includes facilities for cooking, eating, sanitation, and sleeping. A Detached Accessory Dwelling Unit is subordinate to the principal dwelling.

2. Use Standards

- a. Where a Detached Accessory Dwelling Unit is allowed as a limited use, it must satisfy the use standards for all Accessory Dwelling Units under Section 3.3.3.A.2.
- b. Any structure constructed legally before May 31, 2012 that is not increased in size or building height and does not have new windows on a wall nearest an abutting property may be used for a Detached Accessory Dwelling Unit without regard to setbacks or floor area.
- c. A Detached Accessory Dwelling Unit built after May 30, 2012 must have the same minimum side setback as the principal dwelling and a minimum rear setback of 12 feet.
- d. For any Detached Accessory Dwelling Unit with a length along a rear or side lot line that is longer than 24 feet, the minimum side or rear setback must be increased at a ratio of 1 foot for every 1 foot that the dimension exceeds 24 linear feet. The additional rear setback is from a 12-foot setback as its starting

point.

- e. The maximum gross floor area for a Detached Accessory Dwelling Unit must be the least of:
 - i. 50% of the footprint of the principal dwelling;
 - ii. 10% of the lot area; or
 - iii. 1,200 square feet of gross floor area.

D. Dwelling for Caretaker/Watchkeeper

Defined

Dwelling for a Caretaker/Watchkeeper means a dwelling unit for a caretaker or watchkeeper and their families.

E. Farm Labor Housing Unit

1. Defined

Farm Labor Housing Unit means a dwelling unit accessory to the farm and under the control of the owner or operator of the farm on which the dwelling unit is located and occupied by an agricultural worker actively engaged in farming on a full-time or part-time basis. Farm Labor Housing Unit includes mobile homes. A Farm Labor Housing Unit is not restricted by the definition of household or dwelling unit, and may share a well or septic system or both.

2. Use Standards

Where a Farm Labor Housing Unit is allowed as a limited use, it must satisfy the following standards:

- a. In the Agricultural and Rural Residential zones, it is excluded from any density calculations if it remains accessory to a farm. If the property associated with a Farm Labor Housing Unit is subsequently subdivided so that it is no longer accessory to the farm as defined in Section 59.3.7.4.B, the Farm Labor Housing Unit is included in the density calculations.
- b. The maximum number of tenants in a single dwelling is limited by well and septic capacity.
- c. In the RE-2C zone, only one Farm Labor Housing Unit is allowed and it must be a mobile home.
- d. In the Agricultural, Rural Residential, RE-2, and RE-1 zones, a Farm Labor Housing Unit in existence before June 1, 1958 may be rented to a tenant other than an agricultural worker, if the dwelling meets all applicable health and safety regulations. In the event a Farm Labor Housing Unit in existence before June 1, 1958 is rebuilt, the rebuilt unit may be rented to a tenant other than an agricultural worker. The rebuilt dwelling may not exceed the floor area of the pre-existing dwelling.
- e. In the RE-2, RE-1, and R-200 zones, only one mobile home is allowed.
- f. The owner must record a covenant against the property to which the Farm Labor Housing Unit is accessory, with restrictions that satisfy Section 3.3.3.E. The covenant must be in a form approved by the County Attorney's Office, the County's Office of Agriculture, and the Planning Board. The owner must record the covenant before the Department of Permit Services approves a building permit for the unit.

F. Guest House

1. Defined

Guest House means a detached dwelling that is intended, arranged, or designed for occupancy by transient, nonpaying visitors of the resident owner of the principal dwelling.

2. Use Standards

Where a Guest House is allowed as a limited use, it must satisfy the following standards:

- a. A Guest House must not be located on a lot:
 - i. that is occupied by a renter;
 - ii. that has an Accessory Dwelling Unit; or
 - iii. where the owner of the lot resides off-site for more than 6 months in any calendar year.
- b. In the Agricultural and Rural Residential zones, a Guest House is excluded from any density calculations, if it remains accessory to a farm. If the property associated with a Guest House is subsequently subdivided, the Guest House is included in the density calculations.
- c. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

G. Home Health Practitioner

1. Defined

- a. Home Health Practitioner means the office of a health practitioner who is licensed or certified by a Board under the Maryland Department of Health and Mental Hygiene, has an advanced degree in the field from an accredited educational institution, and who resides in the dwelling unit in which the office is located. Home Health Practitioner includes a registered nurse or physician's assistant if that person has an advanced degree in the field and practices independently. Home Health Practitioner does not include an electrologist, mortician, nursing home administrator, pharmacist, or veterinarian.
- b. Home Health Practitioner is limited to 2 health practitioners, one of whom must be a resident, and up to 3 non-resident support persons in any 24-hour period.

2. Use Standards

- a. Where a Home Health Practitioner is allowed as a limited use, it must satisfy the following standards:
 - i. A Home Health Practitioner is prohibited in an apartment, multi-use, and general building type.
 - ii. Screening under Division 6.5 is not required.

iii. To maintain the residential character of the dwelling:

- (a) The use must be conducted by an individual or individuals residing in the dwelling unit.
- (b) The use must be conducted within the dwelling unit or any accessory building and not in any open yard area. The use must be subordinate to the use of the dwelling for residential purposes and any external modifications must be consistent with the residential appearance of the dwelling unit.
- (c) Exterior storage of goods or equipment is prohibited.
- (d) The maximum amount of floor area used for the Home Health Practitioner is 33% of the eligible floor area of the dwelling unit plus any existing accessory building on the same lot, or 1,500 square feet, whichever is less.
- (e) An existing accessory building may be used for the home health practice, but external evidence of such use is prohibited. Only one accessory building may be used and it must be an eligible area.
- (f) Equipment or facilities are limited to:
 - (1) office equipment; or
 - (2) medical equipment.
- (g) Any equipment or process that creates a nuisance or violates any law is prohibited in connection with the operation of a home health practice.
- (h) Disposal of medical waste must be regulated by State laws and regulations.
- (i) Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.
- (j) Appointments are required for visits, but emergency patients may visit outside the specified hours or without appointment.
- (k) Clients, patients, or other visitors must be informed of the correct address and parking location.
- (l) In a Residential zone, any additional parking must be located behind the front building line.

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

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

vi. Treatment of more than one patient or client at a time is allowed, but not more than 5 vehicle trips containing not more than 10 patients may come or leave at the same appointment time.

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

viii. The sale of goods on the premises is prohibited, except for medication prescribed by the health practitioner or a prescribed remedial device that cannot be obtained from a commercial source.

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

x. An indoor waiting room must be provided if more than one patient or client will be on the premises at the same time.

xi. Parking must be screened under Section 6.2.9.B or Section 6.2.9.C, depending on the number of parking spaces provided.

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

3. Registration.

Any Home Health Practitioner must register with DPS.

a. Application Requirements

An application for registration must include the following:

- i. a signed affidavit of compliance that affirms that the applicant:
 - (a) satisfies the applicable standards in Section 3.3.3.G; and
 - (b) will take whatever action is required by DPS to bring the Home Health Practitioner into compliance if complaints of noncompliance are received and verified;
- ii. the manner in which the operation of the Home Health Practitioner satisfies the use standards in Section 3.3.3.G;
- iii. the location of the lot by street address and either lot and block number or liber and folio;
- iv. the zone in which the lot is located;
- v. area of the lot or parcel, in square feet or acres;
- vi. the total floor area of the dwelling unit and the amount of floor area to be used for the Home Health Practitioner, as well as the floor area of any existing accessory building to be used for the Home Health Practitioner;
- vii. the location and number of off-street parking spaces;
- viii. proof of home address;
- ix. other pertinent information required by DPS;

- x. a copy of the use-and-occupancy permit required under Chapter 8; and
- xi. the location of any indoor waiting room for patients, if more than one patient will be on the premises at the same time.

b. Approval

- i. DPS must issue a Certificate of Registration if the applicant:
 - (a) satisfies Section 3.3.3.G; and
 - (b) has an approved on-site inspection.
- ii. DPS must maintain a Home Health Practitioner Registry that is readily available for public inspection.

c. Compliance and Enforcement

- i. If DPS receives a complaint about a Home Health Practitioner, an inspector must inspect the property and determine, within 90 days after receipt of the complaint, whether there is a violation of the provisions of Section 3.3.3.G.
- ii. If DPS determines that there is a violation, DPS may issue a warning notice, and the violation must be corrected within 30 days after the warning notice is issued.
 - (a) In the case of any violation that could be remedied with a conditional use approval, a petition must be filed within 60 days after the warning notice is issued for a conditional use for a Home Health Practitioner under Section 3.3.3.G.4.
 - (b) A hearing on a petition for a conditional use filed in the case of a Home Health Practitioner found to be in violation of Section 3.3.3.G must be scheduled within 30 days, or as soon as the Hearing Examiner's calendar permits. The Hearing Examiner does not have authority to grant the applicant any extension of the hearing in such a case.
 - (c) Operation of the Home Health Practitioner may continue until the Hearing Examiner has acted on the petition, if the violation is corrected before the application for conditional use is filed. If the Hearing Examiner denies the conditional use application, the Home Health Practitioner must cease immediately or operate under the requirements for a Home Health Practitioner.
- iii. DPS may issue a citation under Division 7.8:
 - (a) immediately, instead of a warning notice under Section 3.3.3.G.3.c.iii(b); or
 - (b) 30 days or more after the warning notice was issued under Section 3.3.3.G.3.c.iii(b).

H. Home Occupation

1. Defined, In General

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

2. Use Standards for all Home Occupations

- a. Screening under Division 6.5 is not required.
- b. To maintain the residential character of the dwelling:
 - i. The use must be conducted by an individual or individuals residing in the dwelling unit.
 - ii. The use must be conducted within the dwelling unit or any accessory building and not in any open yard area. The use must be subordinate to the use of the dwelling for residential purposes and require no external modifications that detract from the residential appearance of the dwelling unit.
 - iii. Exterior storage of goods or equipment is prohibited.
 - iv. The maximum amount of floor area used for the Home Occupation must not exceed 33% of the total eligible area of the dwelling unit and any existing accessory building on the same lot, or 1,500 square feet, whichever is less.
 - v. An existing accessory building may be used for the Home Occupation, but external evidence of such use is prohibited. Only one accessory building may be used and it must be an eligible area.
 - vi. Equipment or facilities are limited to:
 - (a) domestic or household equipment;
 - (b) office equipment; or
 - (c) any equipment reasonably necessary for art production, handcrafts, or making beer or wine.
 - vii. Any equipment or process that creates a nuisance or violates any law is prohibited in the operation of a Home Occupation.
 - viii. A Home Occupation is prohibited to use, store, or dispose of:
 - (a) a quantity of a petroleum product sufficient to require a special license or permit from The Fire Marshal; or
 - (b) any material defined as hazardous or required to have a special handling license under State and County law.
 - ix. Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.
 - x. Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.
 - xi. The storage of equipment or merchandise for collection by employees who will use or deliver it at off-site locations is prohibited.
 - xii. A second kitchen in the home for catering or making food for off-site delivery or sales is prohibited.

xiii. The maintenance or repair of motor vehicles for compensation is prohibited.

3. Home Occupation (No Impact)

a. Defined

Home Occupation (No Impact) means a Home Occupation that is not required to register with DPS, prohibits non-resident employees, and is not regulated under Section 7.3.1, Conditional Use.

b. Use standards

Where a Home Occupation (No Impact) is allowed as a limited use, it must satisfy the following standards:

- i. The maximum number of visits and deliveries for all Home Occupations (No Impact) on-site is 5 per week. In R-90 and R-60 zones, a maximum of 2 vehicles visiting the Home Occupation (No Impact) may be parked on the lot at the same time.
- ii. In-person sale of goods is prohibited.
- iii. Display or storage of goods is limited to samples of merchandise that may be ordered by customers for delivery at other locations.

4. Home Occupation (Low Impact)

a. Defined

Home Occupation (Low Impact) means a Home Occupation that is limited to one non-resident employee in any 24-hour period and is required to register with DPS.

b. Use Standards

Where a Home Occupation (Low Impact) is allowed as a limited use, it must satisfy the following standards:

- i. The maximum number of visits is 20 per week, and no more than 5 per day (excluding deliveries and the arrival and departure of any non-resident employee) for all Home Occupations on-site. In R-90 and R-60 zones, a maximum of 2 vehicles visiting the Home Occupation (Low Impact) may be parked on the lot at the same time.
- ii. In-person sale of goods is limited to:
 - (a) handcrafts, art products or similar hand-made products or services such as dressmaking, hand-weaving, block-printing, jewelry, pottery, and musical instruments, which are produced on-site by a resident of the dwelling; and
 - (b) no more than 5 sales per month of items ordered for delivery at a later date to customers at other locations (delivery of goods must occur off-site).
- iii. Display or storage of goods is limited to:
 - (a) products listed in Section 3.3.3.H.4.b.ii.(a); and
 - (b) samples of merchandise that may be ordered by customers for delivery at other locations.
- iv. The maximum number of Home Occupations (Low Impact) allowed in a single dwelling unit is 2.
- v. The applicant must provide valid proof of home address as established by Executive regulations under Method 2 of Chapter 2 (Section 2A-15).
- vi. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

c. Registration

Any Home Occupation (Low Impact) must register with DPS.

i. Application Requirements

An application for registration must include the following:

- (a) a signed affidavit of compliance that affirms that the applicant:
 - (1) satisfies the applicable standards in Section 3.3.3.H; and
 - (2) will take whatever action is required by DPS to bring the Home Occupation (Low Impact) into compliance if complaints of noncompliance are received and verified;
- (b) the manner in which the operation of the Home Occupation (Low Impact) satisfies the use standards in Section 3.3.3.H;
- (c) the location of the lot by street address and either lot and block number or liber and folio;
- (d) the zone in which the lot is located;
- (e) area of the lot or parcel, in square feet or acres;
- (f) the total floor area of the dwelling unit and the amount of floor area to be used for the Home Occupation (Low Impact), as well as the floor area of any existing accessory building to be used for the Home Occupation (Low Impact);
- (g) the location and number of off-street parking spaces;
- (h) proof of home address; and
- (i) other pertinent information required by DPS.

ii. Approval

- (a) DPS must issue a Certificate of Registration if the applicant:
 - (1) satisfies Section 3.3.3.H; and

- (2) has an approved on-site inspection.
- (b) DPS must maintain a Home Occupation Registry that is readily available for public inspection.

iii. Compliance and Enforcement

- (a) If DPS receives a complaint about a Home Occupation (Low Impact), an inspector must inspect the property and determine, within 90 days after receipt of the complaint, whether there is a violation of the provisions of Section 3.3.3.H.
- (b) If DPS determines that there is a violation, DPS may issue a warning notice, and the violation must be corrected within 30 days after the warning notice is issued.
 - (1) In the case of any violation that could be remedied with a conditional use approval, a petition must be filed within 60 business days after the warning notice is issued for a conditional use for a Home Occupation (Major Impact) under Section 3.3.3.H.
 - (2) A hearing on a petition for a conditional use filed in the case of a Home Occupation (Low Impact) found to be in violation of Section 3.3.3.H must be scheduled within 30 days, or as soon as the Hearing Examiner's calendar permits. The Hearing Examiner does not have authority to grant the applicant any extension of the hearing in such a case.
 - (3) Operation of the Home Occupation (Low Impact) may continue until the Hearing Examiner has acted on the petition, if the violation is corrected before the application for conditional use is filed. If the Hearing Examiner denies the conditional use application, the Home Occupation (Low Impact) must cease immediately or operate under the requirements for a Home Occupation (Low Impact).
- (c) DPS may issue a citation under Division 7.8:
 - (1) immediately, instead of a warning notice under Section 3.3.3.H.4.c.iii.(b); or
 - (2) 30 days or more after the warning notice was issued under Section 3.3.3.H.4.c.iii.(b).

5. Home Occupation (Major Impact)

a. Defined

Home Occupation (Major Impact) means a Home Occupation that is limited to 2 non-resident employees in any 24-hour period.

b. Use Standards

- i. Where a Home Occupation (Major Impact) is allowed as a limited use, it must satisfy the following standards:
 - (a) The maximum number of visits is 35 per week, and no more than 8 per day, excluding deliveries and the arrival and departure of any non-resident employee.
 - (b) Visitors must wait inside the dwelling unit.
 - (c) In-person sale of goods is limited to:
 - (1) the products of dressmaking, hand-weaving, block-printing, the making of jewelry, pottery or musical instruments by hand, or similar arts or hand-crafts performed by a resident of the dwelling; and
 - (2) a maximum of 5 sales per month of items ordered for delivery at a later date to customers at other locations (delivery of goods must occur off-site).
 - (d) Display or storage of goods is limited to:
 - (1) the products listed in Section 3.3.3.H.5.b.i.(c); and
 - (2) samples of merchandise that may be ordered by customers for delivery at other locations.
 - (e) Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.
 - (f) Home Occupation (Major Impact) may not be on a site that is already approved for another conditional use under Section 7.3.1, Conditional Use or Home Health Care Practitioner.
 - (g) The applicant must provide valid proof of home address as established by Executive regulations under Method 2 of Chapter 2 (Section 2A-15).
 - (h) Screening under Division 6.5 is not required.
- ii. Where a Home Occupation (Major Impact) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - (a) The maximum number of visits and deliveries is determined by the Hearing Examiner.
 - (b) An indoor waiting room must be provided.
 - (c) In-person sale of goods is limited to:
 - (1) the products of dressmaking, hand-weaving, block-printing, the making of jewelry, pottery or musical instruments by hand, or similar arts or hand-crafts performed by a resident of the dwelling; and
 - (2) a maximum of 5 sales per month of items ordered for delivery at a later date to customers at other locations (delivery of goods must occur off-site).
 - (d) Display or storage of goods is limited to:
 - (1) the products listed in Section 3.3.3.H.5.b.iii.(a); and
 - (2) samples of merchandise that may be ordered by customers for delivery at other locations.

- (e) Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.
- (f) The Hearing Examiner may grant a conditional use for a Home Occupation (Major Impact) on the same site as a Home Occupation (Low Impact), a Home Occupation (No Impact), or a Home Health Practitioner if the Hearing Examiner finds that both together can be operated in a manner that satisfies Section 3.3.3.H.5 and Section 7.3.4, Conditional Use.
- (g) The Hearing Examiner must not grant a conditional use for a Home Occupation (Major Impact) where the site is already approved for any other conditional use under Section 7.3.1, Conditional Use.
- (h) The applicant must provide valid proof of home address as established by Executive regulations under Method 2 of Chapter 2 (Section 2A-15).
- (i) Screening under Division 6.5 is not required.
- (j) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

I. Short-Term Residential Rental

1. Defined

Short-Term Residential Rental means the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast.

2. Use Standards

Where Short-Term Residential Rental is allowed as a limited use, it must satisfy the following standards:

- a. Short-Term Residential Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Dwelling Unit.
- b. The dwelling unit used as a Short-Term Rental must be the property owner's or owner-authorized resident's primary residence, regardless of dwelling unit type.
- c. If the property owner or owner-authorized resident is not present in the residence, the property can be used as a Short-Term Residential Rental for a maximum of 120 days in a calendar year. If the property owner or owner-authorized resident is physically present and occupies the residence during the rental stay, there is no limitation on the number of days the property can be used as a Short-Term Residential Rental.
- d. The use must be licensed under Chapter 54.
- e. The maximum number of occupants is limited by Chapter 26, Section 5; however, the total number of overnight guests in the Short-Term Residential Rental who are 18 years or older is limited to six, and the total number of overnight guests over 18 years of age per bedroom is limited to two.
- f. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited.

(Legislative History: Ord. No. 18-08, § 3; Ord. No. 18-39, § 2; Ord. No. 18-30, § 3; Ord. No. 18-53, § 2; Ord. No. 19-06, § 3; Ord. No. 20-01, § 2; Ord. No. 20-09, § 4.)

Section 3.3.4. Mixed-Income Housing Community

A. Defined

Mixed-Income Housing Community means at least 150,000 square feet of new residential floor area containing Multi-Unit Living under Section 3.3.1.E. A Mixed-Income Housing Community may contain non-residential uses allowed in the underlying zone. A Mixed-Income Housing Community must have 30 or more dwelling units and:

- 1. at least 50% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years and affordable to households earning 60 percent or less of Area Median Income (AMI);
- 2. at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 10% of the total units affordable to households earning 30% percent of Area Median Income (AMI) or below and at least 20% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A; or
- 3. at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 20% of the total units affordable to households earning 50% percent of Area Median Income (AMI) or below and at least 10% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A; or
- 4. the project receives an award of 9% Low-Income Housing Tax Credits (LIHTC) from the Maryland Department of Housing and Community Development (DHCD).

B. Exemptions

- 1. A sketch plan and a site plan are not required for a Mixed-Income Housing Community if the Planning Board approves a Mixed-Income Housing Community plan under Section 7.3.7.
- 2. After a Mixed-Income Housing Community is approved, subsequent additions or expansions of the Mixed-Income Housing Community building or buildings, in any size or amount, will be processed under Section 7.3.7 as amendments. The plan, as amended, must still qualify as a Mixed-Income Housing Community plan under Section 3.3.4.A.
- 3. No off-street parking is required for a Mixed-Income Housing Community that is located on property:
 - a. within a red policy area including contiguous properties separated from a red policy area only by a public right-of-way; or
 - b. within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Connectors.

(Legislative History: Ord. No. 20-03, § 3.)

Division 3.4. Civic and Institutional Uses

Section 3.4.1. Ambulance, Rescue Squad (Private)

A. Defined

Ambulance, Rescue Squad (Private) means a volunteer, privately supported, or non-profit facility providing emergency fire protection, rescue, or ambulance services. Ambulance, Rescue Squad (Private) does not include non-emergency ambulance transportation services.

B. Use Standards

1. Where an Ambulance, Rescue Squad (Private) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
2. Where an Ambulance, Rescue Squad (Private) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - a. The minimum lot area is 20,000 square feet.
 - b. The minimum lot width at the front lot line is 100 feet.
 - c. The minimum front setback is 30 feet.
 - d. The minimum side setback and rear setback is 25 feet.

Section 3.4.2. Charitable, Philanthropic Institution

A. Defined

1. Charitable, Philanthropic Institution means a private, tax-exempt organization whose primary function is to provide:
 - a. services, research, or educational activities in areas such as health and social services;
 - b. housing and support services for persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital;
 - c. recreation; or
 - d. environmental conservation.
2. Charitable, Philanthropic Institution does not include a trade or business whose primary purpose or function is promoting the economic advancement of its members, such as a professional or trade association or a labor union. Charitable, Philanthropic Institution also does not include other uses specifically defined or regulated in this Chapter such as a: Religious Assembly (See Section 3.4.10, Religious Assembly), public or private educational institution (See Section 3.4.5, Educational Institution (Private) and Section 3.4.9, Public Use (Except Utilities)), library or museum (See Section 3.4.3, Cultural Institution), Private Club, Service Organization (See Section 3.4.8, Private Club, Service Organization), Hospital (See Section 3.4.6, Hospital), Residential Care Facility (See Section 3.3.2.F, Residential Care Facility), or Independent Living Facility for Senior Adults or Persons with Disabilities (See Section 3.3.2.D, Independent Living Facility for Seniors or Persons with Disabilities).

B. Use Standards

1. Where a Charitable, Philanthropic Institution is allowed as a limited use, it must satisfy the following standards:
 - a. The Charitable, Philanthropic Institution must be primarily for the provision of support and hospitality services for persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital.
 - b. Services may be provided daily, during any hours, to persons who are not permanent residents of the premises but are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital.
 - c. The support and hospitality services are provided without payment.
 - d. For properties that front on and have direct access to a public road with a master-planned right-of-way of 120 feet or greater, food may be prepared on the premises for off-site consumption but must be provided without payment.
 - e. The Charitable, Philanthropic Institution must use an existing detached house and must retain the appearance of a detached house.
 - f. The maximum number of guests that may reside on the property at one time is 8, excluding:
 - i. resident staff; or
 - ii. children younger than 2 months of age, when present with a parent or legal guardian.
 - g. A maximum of 2 resident staff may live on-site.
 - h. One parking space is required for each resident staff member. A minimum of 0.25 parking spaces is required for each guest bed.
2. Where a Charitable, Philanthropic Institution is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - a. Screening under Division 6.5 is required for outdoor recreation facilities.
 - b. Any lighting associated with outdoor recreation facilities must satisfy Section 6.4.4.
 - c. In the AR, R, RC, and RNC:
 - i. A Charitable, Philanthropic Institution must re-use an existing building. The Hearing Examiner may waive this restriction to approve a residential camp for seriously ill children and their immediate family members, operated or sponsored by a non-profit organization under the following conditions. Immediate family members may attend sessions jointly with or separate from the sessions attended by the children. Separate sessions for immediate family members are only permitted as a secondary camp activity. The camp may include facilities for overnight accommodations and for support services related to camp activities. The camp must be compatible with adjacent land uses.
 - ii. The site fronts on and has direct access to a public road built to Area Connector or higher road standards. Frontage on and access to an Area Connector or higher standard is not required where the Hearing Examiner finds that road access by a Neighborhood Connector, Neighborhood Street or Neighborhood Yield Street will be safe and adequate for the anticipated traffic to be generated.
 - iii. The minimum side setback is twice that required for a detached house.

- iv. The minimum lot width at the front lot line is twice that required for a detached house.
 - v. The minimum green area is 50%.
 - vi. The maximum coverage is half of the maximum allowed for a detached house.
 - vii. The maximum FAR is 0.2.
- d. In the R and RC zones, the maximum lot area is 5 acres.
 - e. In the AR and RNC zones, the minimum lot area is twice that required for a detached house and the maximum lot area is 2 acres.
 - f. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.
 - g. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:
 - i. The site fronts on and has direct access to a road built to Neighborhood Connector or higher standards. Access to a corner lot may be from a Neighborhood Connector street, if the Hearing Examiner finds this access to be appropriate and not detrimental to existing residential uses on that Neighborhood Connector street.
 - ii. The minimum side setback is twice that required for a detached house.
 - iii. The minimum lot width at the front lot line is twice that required for a detached house.
 - iv. The maximum FAR is 0.25.
 - v. For residential and office uses, if located in a lawfully existing building, the standards in Section 3.4.2.B.2.g.ii and Section 3.4.2.B.2.g.iv do not apply.
 - h. In the R-90 and R-60 zones, the minimum green area is 50% and the maximum building height is 35 feet.
 - i. In the R-200 zone, the minimum green area is 60% and the maximum building height is 50 feet.
 - j. In the RE-2, RE-2C, and RE-1 zones, the minimum green area is 70%.

C. Waivers

1. If a property is designated as an historic resource by the Master Plan for Historic Preservation, the Hearing Examiner may waive the standards in Section 3.4.2.B.3.b through Section 3.4.2.B.3.g and Section 3.4.2.B.4 through Section 3.4.2.B.10.
2. If the Charitable, Philanthropic Institution conditional use approval is for a new building located on the property of an existing Religious Assembly, the Hearing Examiner may waive the standards in Section 3.4.2.B.3.b and Section 3.4.2.B.7.a.
3. To grant a waiver under Section 3.4.2.C.1 and Section 3.4.2.C.2, the Hearing Examiner must find that:
 - a. Road access will be safe and adequate for the anticipated traffic to be generated;
 - b. Road access will not have a significantly adverse impact on the surrounding neighborhood; and
 - c. The grant of the waiver will not cause other significant adverse impacts on the surrounding neighborhood.

(Legislative History: Ord. No. 18-05, § 1; Ord. No. 19-21, § 1; Ord. No. 19-39, § 4; Ord. No. 20-01, § 3; Ord. No. 20-17, § 4.)

Section 3.4.3. Cultural Institution

A. Defined

Cultural Institution means any privately owned or operated structure and land where works of art or other objects are kept and displayed, or where books, periodicals, and other reading material is offered for reading, viewing, listening, study, or reference, but not typically offered for sale. Cultural Institution includes a museum, cultural or art exhibit, and library.

B. Use Standards

Where a Cultural Institution is allowed as a limited use, it must satisfy the following standards:

1. In the RC and RNC zone, when main and accessory structures exceed a total floor area of 5,000 square feet, site plan approval is required under Section 7.3.4, unless designated as resources in the Master Plan for Historic Preservation.
2. In the CRN zone, the gross floor area is a maximum of 5,000 square feet.

Section 3.4.4. Day Care Facility

A. Defined, In General

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

B. Exemptions

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

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

C. Family Day Care (Up to 12 Persons)

Defined

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

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

D. Day Care Center (13 - 30 Persons)

1. Defined

Day Care Center (13-30 Persons) means a Day Care Facility for 13 to 30 people where staffing, operations, and structures satisfy State and local regulations. A Day Care Center (13-30 Persons) includes a Family Day Care (Up to 12 Persons) where the provider is not a resident and cannot meet the non-resident provider requirement.

2. Use Standards

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

- a. The facility must not be located in a townhouse or duplex building type.
- b. An adequate area for the discharge and pick up of children is provided.
- c. The number of parking spaces under Division 6.2 may be reduced if the applicant demonstrates that the full number of spaces is not necessary because:
 - i. existing parking spaces are available on abutting property or on the street abutting the site that will satisfy the number of spaces required; or
 - ii. a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems.
- d. For a Family Day Care where the provider is not a resident and cannot meet the non-resident provider requirement, screening under Division 6.5 is not required.
- e. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

E. Day Care Center (Over 30 Persons)

1. Defined

Day Care Center (Over 30 Persons) means a Day Care Facility for over 30 people where staffing, operations, and structures comply with State and local regulations and is not located in a townhouse or duplex building type.

2. Use Standards

- a. Where a Day Care Center (Over 30 Persons) is allowed as a limited use, and the subject lot abuts or confronts property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- b. Where a Day Care Center (Over 30 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. All required parking must be behind the front building line; however, required parking may be located between the structure and the street where the Hearing Examiner finds that such parking is safe, not detrimental to the neighborhood, accessible, and compatible with surrounding properties.
 - ii. An adequate area for the discharge and pick up of children is provided.
 - iii. The Hearing Examiner may limit the number of children outside at any one time.
 - iv. In the RE-2, RE-2C, RE-1, R-200, R-90, R-60, and R-40 zones, the Day Care Center (Over 30 Persons) must be located on a site containing a minimum of 500 square feet of land area per person. The Hearing Examiner may reduce the area requirement to less than 500 square feet, but not less than 250 square feet, per person where it finds that:
 - (a) the facility will predominately serve persons of an age range that requires limited outdoor activity space;
 - (b) the additional density will not adversely affect adjacent properties; and
 - (c) additional traffic generated by the additional density will not adversely affect the surrounding streets.
 - v. The Hearing Examiner may limit the number of people allowed for overnight care.
 - vi. In the AR zone, this use may be prohibited Section 3.1.5, Transferable Development Rights.

(Legislative History: Ord. No. 20-09, § 5.)

Section 3.4.5. Educational Institution (Private)

A. Defined

Educational Institution (Private) means a private school or educational or training academy providing instruction or programs of learning. Educational Institution (Private) includes tutoring and college entrance exam preparatory courses, art education programs, artistic performances, indoor and outdoor recreation programs and summer day camps, any of which may serve individuals who are not enrolled as students in the institution's academic program. Educational Institution (Private) does not include schools operated by the County Board of Education or education conducted in the provider's home as a Home Occupation (See Section 3.3.3.H, Home Occupation).

B. Exemptions

A conditional use is not required for:

1. any private educational institution or parochial school that is located in a building or on premises owned or leased by any church or religious organization; the government of the United States; the State of Maryland or any State agency; Montgomery County; or any incorporated village or town within Montgomery County. This exemption does not apply to any Educational Institution (Private) that received conditional use approval by the Hearing Examiner to operate in a building or on a property that was not owned or leased by any church or religious organization at the time the decision of the Hearing Examiner was issued.
2. any Educational Institution (Private) that is located in a building or on land that has been used for a public school or that is owned or leased by the County; however, site plan approval is required under Section 7.3.4 for:
 - a. construction of an Educational Institution (Private) on vacant land owned or leased by the County; or
 - b. any cumulative increase that is greater than 15% or 7,500 square feet, whichever is less, in the gross floor area, as it existed on February 1, 2000, of an Educational Institution (Private) located in a building that has been used for a public school or that is owned or leased by Montgomery County. Site plan approval is not required for:
 - i. an increase in floor area of an Educational Institution (Private) located in a building that has been used for a public school or that is owned or leased by Montgomery County if a request for review under mandatory referral was submitted to the Planning Board on or before February 1, 2000, or
 - ii. any portable classroom used by a private educational institution that is located on property owned or leased by Montgomery County and that is in place for less than one year.

C. Use Standards

1. Where an Educational Institution (Private) is allowed as a limited use, it must satisfy the following standards:
 - a. In the CRN zone, if the subject lot abuts or confronts property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
 - b. In the IL and IM zones, Educational Institution (Private) is limited to trade, artistic, or technical instruction.
2. Where an Educational Institution (Private) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - a. The Educational Institution (Private) will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element that is incompatible with the environment and character of the surrounding neighborhood.
 - b. The Educational Institution (Private) will be in a building compatible with the residential character of the surrounding neighborhood, and, if the Educational Institution (Private) is located on a lot of 2 acres or less, in either an undeveloped area or an area substantially developed with detached houses, the exterior architecture of the building must be similar to a detached house design, and at least comparable to any existing homes in the immediate neighborhood.
 - c. The Educational Institution (Private) will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community.
 - d. The number of pupils per acre allowed to occupy the premises at any one time must be specified by the Hearing Examiner considering the following factors:
 - i. traffic patterns, including:
 - (a) impact of increased traffic on residential streets;
 - (b) proximity to transit services, Area Connectors, Town Center Streets, Downtown Streets, Boulevards, and Controlled major highways; and
 - (c) provision of measures for Transportation Demand Management in Chapter 42 (Section 42A-21).
 - ii. adequacy of drop-off and pick-up areas for all programs and events, including on-site stacking space and traffic control to effectively deter vehicle queues on adjacent streets;
 - iii. adequacy of student and visitor parking; and
 - iv. noise or type of physical activity.
 - e. Density greater than 87 pupils per acre may be permitted only where the Hearing Examiner finds that:
 - i. the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements;
 - ii. the additional density will not adversely affect adjacent properties; and
 - iii. additional traffic generated by the additional density will not adversely affect the surrounding streets.
 - f. Outdoor recreation facilities are screened from abutting residential properties under Division 6.5.
 - g. Any lighting associated with outdoor recreation facilities must satisfy Section 6.4.4.
 - h. If an Educational Institution (Private) operates or allows its facilities by lease or other arrangement to be used for: (i) tutoring and college entrance exam preparatory courses; (ii) art education programs; (iii) artistic performances; (iv) indoor and outdoor recreation programs; or (v) summer day camps, the Hearing Examiner must find, in addition to the other required findings for the grant of a conditional use, that the activities in combination with other activities of the institution, will not have an adverse effect on the surrounding neighborhood due to traffic, noise, lighting, or parking, or the intensity, frequency, or duration of activities. In evaluating traffic impacts on the community, the Hearing Examiner must take into consideration the total cumulative number of expected car trips generated by the regular academic program and the after school or summer programs, whether or not the traffic exceeds the capacity of the road. A transportation management plan that identifies measures for reducing demand for road capacity must be approved by the Hearing Examiner.
 - i. The Hearing Examiner may limit the number of participants and frequency of events.

(Legislative History: Ord. No. 18-08, § 4; Ord. No. 19-39, § 4.)

Section 3.4.6. Hospital

A. Defined

Hospital means an institution providing health services primarily for the sick or injured and offering inpatient medical or surgical care. Hospital includes accessory facilities, such as laboratories, medical/dental clinics, helistops, training facilities, classrooms, central service facilities, and staff offices integral to the Hospital. Hospital does not include a stand-alone hospice (see Section 3.3.2.F, Residential Care Facility).

B. Use Standards

1. Where a Hospital is allowed as a limited use, it must abut property zoned Commercial/Residential, Employment, or Industrial.
2. Where a Hospital is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - a. The Hearing Examiner finds that the Hospital will not create a nuisance because of traffic, noise, or the number of patients or persons cared for; that it will not affect adversely the present character or future development of the surrounding residential community.
 - b. The minimum lot area is 5 acres.
 - c. The minimum lot width at the front lot line is 200 feet. This requirement does not apply in the GR and EOF zones.
 - d. Where the subject lot abuts land that is zoned Residential Detached or is used solely for detached houses, no portion of a building must be nearer to the lot line than a distance equal to the height of that portion of the building, and a minimum of 50 feet from a lot line when the subject lot abuts all other zones and nonresidential uses.
 - e. Off-street parking must be located to achieve a maximum of coordination between the proposed development and the surrounding uses and a maximum of safety, convenience, and amenity for the residents of neighboring areas.
 - f. Parking must be limited to a minimum between the front lot line and the front building line.
 - g. The maximum height of a Hospital building is 145 feet in spite of any other limitation in this Chapter.
 - h. In the Industrial zones, the maximum FAR of a Hospital building is established by the conditional use approval in spite of any other limitation in this Chapter.

(Legislative History: Ord. No. 20-17, § 4.)

Section 3.4.7. Playground, Outdoor Area (Private)

Defined

Playground, Outdoor Area (Private) means an area used for outdoor recreation, often containing recreational equipment such as slides or swings. Playground, Outdoor Area (Private) includes both passive and active facilities, trails, and greenways.

Section 3.4.8. Private Club, Service Organization

A. Defined

Private Club, Service Organization means an association for civic, social, cultural, religious, literary, political, recreational or like activities, operated for the benefit of its members and not open to the public.

B. Use Standards

1. Where a Private Club, Service Organization is allowed as a limited use, and the subject lot abuts or confronts property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
2. Where a Private Club, Service Organization is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - a. The minimum lot area required is twice the minimum required for a detached house building type in the zone, up to a maximum of 3 acres.
 - b. The minimum lot width at the front lot line is twice that required for a detached house.
 - c. The maximum coverage allowed is 15%, including accessory buildings, or 20,000 square feet, whichever is less.
 - d. The minimum open space requirement is 50%.
 - e. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

Section 3.4.9. Public Use (Except Utilities)

Defined

Public Use (Except Utilities) means a publicly-owned or publicly operated use. Public Use (Except Utilities) includes County office buildings, maintenance facilities, public schools and parks, post office, State and Federal buildings. Public Use (Except Utilities) does not include a Public Utility Structure (see Section 3.6.7.E, Public Utility Structure).

Section 3.4.10. Religious Assembly

A. Defined

Religious Assembly means a meeting area for religious practices, including a church, synagogue, mosque, convent, or monastery. Religious Assembly includes a memorial garden on the premises.

B. Use Standards

Where Religious Assembly is allowed as a limited use, it must satisfy the following standards:

1. This use may be prohibited under Section 3.1.5, Transferable Development Rights.
2. This use is exempt from the minimum site area requirement in Section 4.2.1.F.1 and the maximum density requirement of 1 lot per 25 acres in Section 4.2.1.F.2 if the lawful use existed in a building on the parcel on September 17, 2013 and the parcel has not changed in size or shape since September 17, 2013. If the parcel size or shape is modified by deed or plat, then the use no longer qualifies for this exemption.

Section 3.4.11. Swimming Pool (Community)

A. Defined

Swimming Pool (Community) means a private swimming pool shared by its members, including recreational facilities such as tennis courts as an accessory use. Swimming Pool (Community) does not include swimming pools owned by a homeowner's association, operated as part of an apartment complex, or pools that are accessory to a dwelling.

B. Use Standards

Where a Swimming Pool (Community) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use (excluding Section 7.3.1.E.1 and 7.3.1.E.3), and the following standards:

1. The swimming pool, including the pool deck and any buildings, is set back a minimum of 75 feet from any lot line shared with a property zoned Agricultural, Rural Residential, or Residential or at least 125 feet from any existing residential dwelling, whichever is greater.
2. The swimming pool, including the pool deck and any buildings, is set back a minimum of 25 feet from any public right-of-way or lot line shared with a property zoned Commercial/Residential, Employment, or Industrial.
3. Buildings must satisfy the requirements of the zone in which the pool is located.
4. Where a public water supply is available, it must be used for the pool. Use of a private supply of water for the pool is allowed only where no public water supply is available and the pool will not have an adverse effect on the private water supply for the community.

Division 3.5. Commercial Uses

Section 3.5.1. Animal Services

A. Defined, In General

Animal Services means the structures or land used for the care of animals. Animal Services does not include any use considered accessory to an agricultural use.

B. Animal Boarding and Care

1. Defined

Animal Boarding and Care means the structures or land used for the boarding, breeding, or care of dogs, cats, pets, fowl, or other domestic animals at a location other than a Veterinary Office/Hospital, not including animals raised for agricultural purposes.

2. Use Standards

a. Where Animal Boarding and Care is allowed as a limited use, it must satisfy the following standards:

- i. Any part of a building used for animal boarding or care must be soundproofed.
- ii. If it is abutting or confronting a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- iii. An outdoor exercise yard is allowed if:
 - (a) it is fenced and set back a minimum of 50 feet from any Residential zone; and
 - (b) any animal is prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.

b. Where Animal Boarding and Care is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- i. In the AR, R, RC, RNC, RE-2, RE-2C, RE-1, and R-200 zones:
 - (a) The minimum lot area is 2 acres or the minimum lot area required for a detached house building type in the zone, whichever is greater.
 - (b) Exterior areas used to exercise, walk, or keep animals must be set back a minimum of 200 feet from any lot line and screened under Division 6.5.
 - (c) All exterior exercise areas and runs must be fenced.
 - (d) Animals are prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.
 - (e) Animals must only be walked or exercised in on-site outdoor areas.
 - (f) The sound level at the nearest property line must satisfy Chapter 31B.
 - (g) All buildings and accessory structures must be set back a minimum of 75 feet from any lot line.
 - (h) All litter and animal waste must be contained and controlled on the site.
 - (i) Any accessory operation, such as the sale of pet food and supplies, must be in the statement of operations and must be limited as an accessory activity to a maximum of 20% of sales.
 - (j) The Hearing Examiner may regulate hours of operation. The Hearing Examiner may also regulate the number of animals that may be boarded, exercised, walked, or kept in runs or similar areas, and how the animals are boarded, exercised, walked or kept.
 - (k) If the proposed use is located in an area that uses well water and septic facilities, the applicant must prove that the use will not have any negative effect on groundwater or septic systems.
 - (l) The applicant must submit the following:
 - (1) Acoustical engineering studies that demonstrate that the proposed use will meet required noise levels. The studies must show the worst case scenario sound level (for example, full occupancy). The statement of operations must be sufficiently detailed to allow determination of how often the worst case scenario sound level occurs.

- (2) Detailed floor plans that show all the interior areas, including runs and kennels.
- (3) Site plans that show the layout of all exterior areas used to exercise, walk, or keep animals.
- ii. In the Employment zones, any part of a building used for animal boarding or care must be soundproofed.
- iii. In the zone, an outdoor exercise yard is allowed if:
 - (a) it is fenced and set back a minimum of 50 feet from any Residential zone; and
 - (b) any animal is prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.

C. Veterinary Office/Hospital

1. Defined

Veterinary Office/Hospital means any structure and land where medical, surgical, and other veterinary care is provided to domestic animals, which may stay overnight only for medical purposes. Veterinary Office/Hospital does not include Animal Boarding and Care (see Section 3.5.1.B, Animal Boarding and Care)

2. Use Standards

- a. Where a Veterinary Office/Hospital is allowed as a limited use, it must satisfy the following standards:
 - i. In the Commercial/Residential and Employment zones, an outdoor exercise yard is allowed if:
 - (a) it is fenced and set back a minimum of 50 feet from any Residential zone; and
 - (b) any animal is prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.
 - ii. Any part of a building used for animal boarding must be soundproofed.
 - iii. In the Commercial/Residential and Employment zones, where the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- b. Where a Veterinary Office/Hospital is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. Exterior areas used to exercise, walk, or keep animals must be set back a minimum of 75 feet from any lot line and screened under Division 6.5.
 - ii. All exterior exercise areas and runs must be fenced.
 - iii. Animals are prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.
 - iv. Animals must only be walked or exercised in on-site outdoor areas.
 - v. The sound level at the nearest property line must satisfy Chapter 31B.
 - vi. All buildings and accessory structures must be set back a minimum of 50 feet from any residential lot line.
 - vii. All litter and animal waste must be contained and controlled on the site.
 - viii. Any accessory operation, such as the sale of pet food and supplies, must be in the statement of operations and must be limited as an accessory activity to a maximum of 20% of sales.
 - ix. The Hearing Examiner may regulate hours of operation. The Hearing Examiner may also regulate the number of animals that may be boarded, exercised, walked or kept in runs or similar areas, and how the animals are boarded, exercised, walked or kept.
 - x. The Hearing Examiner may regulate the number of appointments. Animals may be seen by appointment only. Emergency patients and visits to pick up prescriptions and pet-related items may also occur, within office hours only and without a scheduled appointment; abuse of this exemption may lead to revocation of the conditional use. A written log of all appointments and drop-in and emergency client activities must be kept, to be available for inspection by DPS.
 - xi. If the proposed use is located in an area that uses well water and septic facilities, the applicant must prove that the use will not adversely effect groundwater or septic systems.
 - xii. The applicant must submit the following:
 - (a) Acoustical engineering studies that demonstrate that the proposed use will meet required noise levels. The studies must show the worst case scenario sound level (for example, full occupancy). The statement of operations must be sufficiently detailed to allow determination of how often the worst case scenario sound level occurs.
 - (b) Detailed floor plans that show all the interior areas, including runs and kennels.
 - (c) Site plans that show the layout of all exterior areas used to exercise, walk, or keep animals.
 - xiii. In the R-90 and R-60 zones:
 - (a) The minimum lot area is one-half acre; and
 - (b) In the R-60 zone, the Veterinary Office/Hospital must be located on a site with frontage on a road with a minimum existing right-of-way width of 90 feet, that confronts a property zoned Commercial/Residential or Employment.
 - xiv. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

(Legislative History: Ord. No. 18-08, § 5; Ord. No. 19-05, §2.)

Section 3.5.2. Communication Facility

A. Cable Communications System

1. Defined

Cable Communications System means an arrangement of antennas, cables, amplifiers, towers, microwave links, lines, wires, waveguides, laser beams, satellites, or any other conductors, converters, equipment, or structures designed, constructed and operated with the purpose of producing, transmitting, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electronic or electrical signals, programs and services in which the signals are distributed by wire or cable to subscribing members of the public. Cable Communications System does not include any similar system with cables that do not touch public rights-of-way and that serve only the occupants of a single property of land under common ownership or management.

2. Use Standards

Where a Cable Communications System is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. Any proposed tower must be set back one foot for every foot of height of a tower from all property lines, measured from the base of the support structure.
- b. The location of the proposed community access centers or studios are consistent with the cable communications plan approved by the District Council.
- c. Structures, buildings, and facilities in which or on which component elements of a Cable Communications System are located or which otherwise support the system, and which are operated by the entity operating the Cable Communications System under a franchise awarded by Montgomery County, may be allowed if approved by the Hearing Examiner.
- d. Offices are prohibited in Residential zones as part of the Cable Communications System.
- e. Screening under Division 6.5 is not required.
- f. The transmission and distribution lines, wires, and cables that are component elements of a cable communications system are permitted uses in all zones and are not required to obtain conditional use approval.

B. Media Broadcast Tower

1. Defined

Media Broadcast Tower means any structure used to transmit radio or television communications that are intended to be received by the public. Media Broadcast Tower does not include amateur radio antenna (see Section 3.5.14.A and Section 3.5.14.B, Amateur Radio Facility) or Telecommunications Tower (see Section 3.5.2.C, Telecommunications Tower).

2. Use Standards

- a. Where a Media Broadcast Tower is allowed as a limited use, it is a maximum height of 199 feet and is set back one foot for every foot of height from any property zoned Agricultural, Rural Residential, or Residential.
- b. Where a Media Broadcast Tower is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. Before the Hearing Examiner grants any conditional use for a Media Broadcast Tower, the proposed facility must be reviewed by the County Transmission Facility Coordinating Group. The applicant for a conditional use must file a recommendation from the Transmission Facility Coordinating Group with the Hearing Examiner regarding the tower with the application. The recommendation must be no more than one year old.
 - ii. Any antenna that is collocated on an existing tower is allowed without a conditional use permit. A modification of a Media Broadcast Tower conditional use permit is only required for a change to any use within the conditional use area directly related to the conditional grant.
 - iii. A Media Broadcast Tower must be set back from the property line, as measured from the base of the support structure, as follows:
 - (a) In the Agricultural, Rural Residential, and Residential Detached zones, a distance of one foot for every foot of height or 275 feet from an existing dwelling, whichever is greater.
 - (b) In the Employment and Industrial zones, a distance of one foot for every foot of height.
 - (c) The Hearing Examiner may reduce the setback requirement to not less than the building setback for a detached house building type in the applicable zone or to a distance of one foot from an off-site dwelling for every foot of height of the support structure, whichever is greater, if evidence indicates that a reduced setback will allow the support structure to be located on the property in a less visually obtrusive location than locations on-site where all setback requirements can be met after considering the height of the structure, topography, existing vegetation, nearby residential properties, and visibility from the street. A reduced setback may be approved only if there is a location on the property where the setback requirements can be met.
 - iv. The maximum height of the support structure is 275 feet, except where it can be demonstrated that the additional height is necessary to satisfy the minimum requirements established by the Federal Communications Commission. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection required by the building permit, the applicant must certify to DPS that the height and location of the support structure as built conforms with the height and location of the support structure on the building permit.
 - v. The support structure must be located to minimize its visual impact. Screening under Division 6.5 is not required; however, the Hearing Examiner may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and abutting and nearby residential properties.
 - vi. The property owner is an applicant for the conditional use for each support structure.
 - vii. The equipment compound has sufficient area to accommodate equipment sheds or cabinets associated with a station or tower. The outdoor storage of equipment or other items is prohibited.
 - viii. Signs or illumination are prohibited on the antennas or support structure unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.
 - ix. The Media Broadcast Tower will be removed at the cost of the owner when no longer in use for more than 12 months.
 - x. Any support structure is identified by a sign 2 square feet or smaller, affixed to the support structure or any equipment building. The sign must identify the owner and the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the structure. The sign must be updated and the Hearing Examiner notified within 10 days of any change in ownership.
 - xi. The owner of the facility is responsible for maintaining the facility in a safe condition.

C. Telecommunications Tower

1. Defined

- a. Telecommunications Tower means any structure, other than a building, used to provide wireless voice, data, or image transmission within a designated service area. Telecommunications Tower includes one or more antennas attached to a support structure, and related equipment, but does not include amateur radio antenna (see Section 3.5.14.A and Section 3.5.14.B, Amateur Radio Facility), radio or TV tower (see Section 3.5.2.B, Media Broadcast Tower), or an antenna on an existing structure (See Section 3.5.14.C, Antenna on Existing Structure).
- b. Antenna Dimension means an antenna, and any enclosure containing the antenna, in which the total combined size of the antenna within any enclosure meets the following dimensions:

Standard	Maximum Length on Any Side (in feet)	Maximum Volume (in cubic feet, excluding any equipment cabinet)
A	4 feet 2 inches	6 cubic feet
B	4 feet 2 inches	46 cubic feet
C	6 feet	30 cubic feet
D	9 feet	13 cubic feet
E	15 feet	1 cubic foot

2. Use Standards

- a. Where a Telecommunications Tower is allowed as a limited use in the Agricultural zone, Rural zone, Rural Cluster zone, Employment zones, and Industrial zones, and the tower is not a replacement tower that complies with 59.3.5.2C.2.b, it must satisfy the following standards:
- Antennas are limited to the following:
 - an antenna that satisfies one of the Antenna Dimensions standards in Section 59.3.5.2.C.1.b ;
 - satellite or microwave dish antennas with a maximum diameter of 8 feet.
 - Signs or illumination on the antennas or support structure are prohibited unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.
 - In the AR, R, and RC zones, the tower must be located within an overhead transmission line right-of-way and is a maximum height of 179 feet. The tower must be a minimum of 300 feet from any dwelling. A Telecommunications Tower conditional use application may be filed with the Hearing Examiner to deviate from this standard.
 - In the LSC, IL, IM, and IH zones, the tower is a maximum height of 179 feet with a setback of one foot for every foot of height from the property lines of all properties zoned Agricultural, Rural Residential, or Residential.
 - In the GR and EOF zones, the tower is a maximum height of 130 feet with a setback of one foot for every foot of height from the property lines of all properties zoned Agricultural, Rural Residential, or Residential. A Telecommunications Tower conditional use application may be filed with the Hearing Examiner to deviate from this standard.
- b. Where a Telecommunications Tower is allowed as a limited use and the tower would replace a pre-existing utility pole, streetlight pole, or site plan approved parking lot light pole, the tower is allowed if it satisfies the following standards:
- Any building permit application to the Department of Permitting Services for the construction of a Telecommunications Tower must include a recommendation from the Transmission Facility Coordinating group issued within 90 days of the submission of the building permit application.
 - In the Commercial/Residential, Industrial, and Employment zones, the pre-existing pole and the replacement tower must be at least 10 feet from an existing building, excluding any setback encroachments allowed under Section 4.1.7.B.5.
 - In the Agricultural, Rural Residential, and Residential zones, the pre-existing pole and the replacement tower must be at least 30 feet from any building intended for human occupation, excluding any setback encroachments allowed under Section 4.1.7.B.5.
 - Antennas must comply with the Antenna Classification Standard A under Section 59.3.5.2.C.1.b, be concealed within an enclosure the same color as the pole, be installed at a minimum height of 15 feet, and be installed parallel with the tower.
 - A replacement tower must be located:
 - within 2 feet of the base of a pre-existing pole and at the same distance from the curb line, or edge of travel lane in an open section, as the pre-existing pole in a public right-of-way;
 - outside of the roadway clear zone as determined by the Department of Permitting Services;
 - in a manner that allows for adequate sight distances as determined by the Department of Permitting Services;
 - in a manner that complies with streetlight maintenance requirements as determined by the Department of Transportation;
 - at least 150 feet from the nearest antenna occupied or controlled by the same carrier; and
 - whenever it is legally and technically feasible, replacement poles should replace pre-existing poles that are located closest to intersections, closest to property lines between dwellings, along the non-front-facing side of residential properties, or along abutting properties used for a non-residential purpose. In addition, the replacement towers must be at least 5 feet from the area between two parallel lines extending from the sides of a residential front door. If the applicant cannot meet the foregoing standards, the applicant must include in their application an affidavit proving that either permission from the pole owner cannot be obtained or service cannot be provided using a pole at an alternate location.
 - A pre-existing streetlight or parking lot light pole must be removed within 10 business days after power is activated to the replacement tower, and a pre-existing utility pole must be removed within 180 days after a replacement utility pole is installed.
 - The height of the tower, including any attached antennas and equipment, must not exceed:
 - in the Commercial/Residential, Industrial, and Employment zones, for streetlights, the height of the pole that is being replaced or the height of the tallest streetlight pole within 50 feet, whichever is greater;

- (1) plus 6 feet when abutting a right-of-way with a paved section width of 65 feet or less; or
- (2) plus 15 feet when abutting a right-of-way with a paved section width greater than 65 feet;
- (b) in the Agricultural, Rural Residential, and Residential zones, for streetlights, the height of the pole that is being replaced:
 - (1) plus 6 feet when abutting a right-of-way with a paved section width of 65 feet or less, or up to 25 feet where the height of the pole being replaced is less than 20 feet tall, whichever is greater; or
 - (2) plus 15 feet when abutting a right-of-way with a paved section width greater than 65 feet; and
- (c) for utility poles and parking lot lights, the height of the pre-existing utility or parking lot light pole plus 10 feet.

viii. The tower must be the same color as the pre-existing pole.

ix. The tower must have no exterior wiring, except that exterior wiring may be enclosed in shielded conduit on wooden or utility poles.

x. Any equipment cabinet:

- (a) must not exceed a maximum volume of 12 cubic feet;
- (b) if used to support antennas on a replacement streetlight pole, must be installed in the Telecommunications Tower base or at ground level, unless this requirement is waived by the Department of Transportation;
- (c) must be the same color or pattern as the pre-existing tower, except as provided in Section 3.5.2.C.b.x(d); and
- (d) may be a stealth design approved for safety by the Department of Transportation.

xi. The tower must include a replacement streetlight, if a streetlight existed on the pre-existing pole.

xii. The design of a replacement tower located in a public right-of-way, including the footer and the replacement streetlight, must be approved by the Department of Transportation.

xiii. The noise level of any equipment must comply with Chapter 31B.

xiv. Signs or illumination, except a streetlight, on the antennas or support structure are prohibited unless required by the Federal Communications Commission or the County.

xv. The owner of the tower must maintain the tower. The owner of the antenna must maintain the antenna and equipment in a safe condition. Both owners must remove graffiti and repair damage to the facility.

xvi. If a tower does not have a streetlight, the tower must be removed at the expense of the owner of the tower when the tower is no longer in use for more than 12 months. Any antenna and equipment must be removed at the expense of the owner of the antenna and equipment when the antenna and equipment are no longer in use for more than 12 months. The Transmission Facility Coordinating Group must be notified within 30 days of the removal.

c. Where a Telecommunications Tower is allowed as a conditional use, it may be permitted by the Hearing Examiner under either Section 3.5.2.C.2.d or Section 3.5.2.C.2.a, limited use standards. In addition, Section 7.3.1 and the following procedures and standards must be satisfied:

i. Before the Hearing Examiner approves any conditional use for a Telecommunications Tower, the proposed facility must be reviewed by the Transmission Facility Coordinating Group. The applicant for a conditional use must file a recommendation from the Transmission Facility Coordinating Group with the Hearing Examiner at least 5 days before the date set for the public hearing. The recommendation must be no more than 90 days old when the conditional use application is accepted.

ii. A Telecommunications Tower must be set back, as measured from the base of the support structure, as follows:

- (a) A Telecommunications Tower is prohibited in any scenic setback indicated in a master plan.
- (b) In the Agricultural, Rural Residential, and Residential Detached zones, a distance of one foot for every foot of height or 300 feet from an existing dwelling, whichever provides the greater setback.
- (c) In the Employment zones, a distance of one-half foot for every foot of height from the property lines of abutting Commercial/Residential, Employment, or Industrial zoned properties, and one foot for every foot of height from the property lines of abutting Agricultural, Rural Residential, or Residential zoned properties.
- (d) The Hearing Examiner may reduce the setback requirement to not less than the building setback for a detached house building type in the applicable zone or to a distance of one foot from an off-site dwelling for every foot of height of the support structure, whichever is greater, if evidence indicates that a reduced setback will allow the support structure to be located on the property in a less visually obtrusive location than locations on-site where all setback requirements can be met after considering the height of the structure, topography, existing vegetation, nearby residential properties, and visibility from the street. A reduced setback may be approved only if there is a location on the property where the setback requirements can be met.

iii. The maximum height of a support structure and antenna is 135 feet, unless it can be demonstrated that additional height up to 179 feet is needed for service, collocation, or public safety communication purposes. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection required by the building permit, the applicant must certify to DPS that the height and location of the support structure conforms with the height and location of the support structure on the building permit.

iv. The support structure must be located to minimize its visual impact. Screening under Division 6.5 is not required, however, the Hearing Examiner may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and nearby residential properties.

v. The property owner must be an applicant for the conditional use for each support structure.

vi. A modification of a conditional use is only required for a change to any use within the conditional use area directly related to the conditional use approval.

vii. A support structure must be constructed to hold a minimum of 3 wireless communication carriers unless the Hearing Examiner finds:

- (a) that collocation at the proposed location is not essential to the public interest; and

- (b) that construction of a lower support structure with fewer wireless communication carriers will promote community compatibility.
 - viii. The equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with all the carriers. Outdoor storage of equipment or other items is prohibited.
 - ix. The support structure must be removed at the cost of the owner of the Telecommunications Tower when the Telecommunications Tower is no longer in use by any wireless communication carrier for more than 12 months.
 - x. The support structure must be identified by a sign 2 square feet or smaller, affixed to the support structure or any equipment building. The sign must identify the owner and the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the structure. The sign must be updated and the Hearing Examiner notified within 10 days of any change in ownership.
 - xi. Each owner of the Telecommunications Tower is responsible for maintaining the wireless communications tower in a safe condition.
 - xii. The Hearing Examiner must make a separate, independent finding as to need and location of the facility. The applicant must submit evidence sufficient to demonstrate the need for the proposed facility.
- d. In the Agricultural, Rural Residential, and Residential zones, where a Telecommunications Tower is proposed to be less than 30 feet from any building intended for human occupation, excluding any setback encroachments allowed under Section 4.1.7.B.5, it may be permitted by the Hearing Examiner as a conditional use without regard to Section 7.3.1 only if the following procedures and standards are satisfied:
- i. An application must include:
 - (a) the subject property's ownership and, if the applicant is not the owner, authorization by the owner to file the application;
 - (b) fees as approved by the District Council;
 - (c) a statement of how the proposed development satisfies the criteria to grant the application;
 - (d) a certified copy of the official zoning vicinity map showing the area within at least 1,000 feet surrounding the subject property;
 - (e) a written description of operational features of the proposed use;
 - (f) plans showing existing buildings, structures, rights-of-way, tree coverage, vegetation, historic resources, and the location and design of streetlights, utilities, or parking lot poles within 300 feet of the proposed location;
 - (g) a list of all property owners, homeowners associations, civic associations, condominium associations, and renter associations within 300 feet of the proposed tower;
 - (h) plans showing height and architectural design of the tower and cabinets, including color materials, and any proposed landscaping and lighting;
 - (i) photograph simulations with a direct view of the tower and site from at least 3 directions;
 - (j) at least one alternative site that maximizes the setback from any building intended for human occupation or reduces the height of the proposed tower.
 - ii. Before the Hearing Examiner reviews any conditional use for a Telecommunications Tower, the proposed facility must be reviewed by the Transmission Facility Coordinating Group. The Transmission Facility Coordinating Group must verify the information in the draft application and must issue a recommendation within 20 days of accepting a complete Telecommunications Tower application. The applicant for a conditional use must file a complete copy of the recommendation from the Transmission Facility Coordinating Group with the Hearing Examiner at least 5 days before the date set for the public hearing. The Transmission Facility Coordinating Group recommendation must have been made within 90 days of its submission to the Hearing Examiner.
 - iii. Upon receipt of the Transmission Facility Coordinating Group recommendation, the applicant must submit an initial application to the Planning Director for approval of completeness, under Section 7.3.1.B.3. The Planning Director must review the application for completeness within 10 days after receipt.
 - iv. The Hearing Examiner must schedule a public hearing to begin within 30 days after the date a complete application is accepted by the Hearing Examiner.
 - (a) Within 10 days of when an application is accepted, the Office of Zoning and Administrative Hearings must notify the municipality where the proposed tower will be located, as well as all property owners, homeowners associations, civic associations, condominium associations, and renter associations within 300 feet of the proposed tower of:
 - (1) the filed application;
 - (2) the hearing date; and
 - (3) information on changes to the hearing date or the consolidation found on the Office of Zoning and Administrative Hearing's website.

A sign that satisfies Section 59.7.5 must also be posted at the site of the application at the same time.

 - (b) The Hearing Examiner may postpone the public hearing for up to 30 days at the request of the applicant and must post notice on the website of the Office of Zoning and Administrative Hearings of any changes to the application, the application schedule, or consolidation of multiple applications.
 - (c) The Hearing Examiner may request information from Planning Department Staff.
 - v. The setback for a Telecommunications Tower must be measured from the base of the support structure.
 - vi. If the Hearing Examiner determines that additional height and reduced setback are needed to provide service or a reduced setback or increased height will allow the support structure to be located on the property in a less visually obtrusive location, the Hearing Examiner may reduce the setback requirement or increase the height up to 50 feet. In making this determination, the Hearing Examiner must consider the height of the structure, topography, existing tree coverage and vegetation, proximity to nearby residential properties, and visibility from the street.
 - vii. The Hearing Examiner may not approve a conditional use if the use abuts or confronts an individual resource or is in a historic district in the Master Plan for Historic Preservation.

- viii. The tower must be located to minimize its visual impact as compared to any alternative location where the tower could be located to provide service. Neither screening under Division 6.5 nor the procedures and standards under Section 7.3.1 are required. The Hearing Examiner may require the tower to be less visually obtrusive by use of screen, coloring, or other visual mitigation options, based on existing tree coverage and vegetation and design and presence of streetlight, utility, or parking lot poles.
- e. When multiple applications for Telecommunications Towers raise common questions of law or fact, the Hearing Examiner may order a joint hearing or consolidation of any or all of the claims, issues, or actions. Any such order may be prompted by a motion from any party or at the Examiner's own initiative. The Hearing Examiner may enter an order regulating the proceeding to avoid unnecessary costs or delay. The following procedures for consolidated hearings govern:
 - i. All applications must be filed within 30 days of the initial application to be consolidated and be accompanied by a motion for consolidation.
 - ii. The proposed sites, starting at a chosen site, must be located such that no site is further than 3,000 feet from the chosen site in the application.
 - iii. The proposed sites must be located in the same zone, within the same Master Plan area, and in a neighborhood with similar building heights and setbacks.
 - iv. Each tower must be of the same or similar proposed height, structure, and characteristics.
 - v. A motion to consolidate must include a statement specifying the common issues of law and fact.
 - vi. The Hearing Examiner may order a consolidated hearing if the Examiner finds that a consolidated hearing will more fairly and efficiently resolve the matters at issue.
 - vii. If the motion to consolidate is granted, the applicant and opposition must include all proposed hearing exhibits with their pre-hearing statements.
 - viii. The Hearing Examiner has the discretion to require the designation of specific persons to conduct cross-examination on behalf of other individuals and to limit the amount of time given for each party's case in chief. Each side must be allowed equal time.
- f. Where a proposed Telecommunications Tower does not meet the limited use standards because it is taller than allowed under Section 3.5.2.C.2.b.vii or where there is no pre-existing or replacement pole so a new pole must be constructed, but otherwise meets the limited use standards under Section 3.5.2.C.2.b, the applicant may request a waiver from the Office of Zoning and Administrative Hearings. The application must meet the requirements of Sections 3.5.2.c.2.d.1 and 3.5.2.c.2.d.3.
 - i. A new pole may only be constructed if there is no utility pole or streetlight pole within 150 feet of the proposed location that could be used as a pre-existing pole or replacement tower.
 - ii. The applicant must notify by mail the municipality where the proposed tower will be located, as well as all property owners, homeowners associations, civic associations, condominium associations, and renter associations within 300 feet of the proposed tower. Proof of when notice was mailed must be submitted to the Office of Zoning and Administrative Hearings. A sign that satisfies Section 59.7.5 must also be posted at the site of the application at the same time.
 - iii. Upon receipt of notice of a waiver, the municipality, a property owner, homeowners association, civic association, condominium association, or renter association within 300 feet of the proposed tower may file an objection and request a hearing with the Office of Zoning and Administrative Hearings. An objection must be filed within 20 days of when notice was mailed.
 - iv. If an objection is received, the Hearing Examiner must send notice of an adjudicatory hearing to the applicant and any aggrieved person who filed an objection within 10 days after the objection is received and conduct any such hearing within 30 days of the date the objection is received. Waivers and objections may be consolidated under Section 3.5.2.c.2.e.5.
 - v. The Hearing Examiner may only decide the issues raised by the waiver or objection. The Hearing Examiner will determine whether the proposed location minimizes visual impact as compared to any alternative location where the new tower could be located to provide service, and consistent with the Hearing Examiner's authority under Section 3.5.2.c.2.d. The maximum height allowed is 50 feet.
 - vi. The Hearing Examiner must issue a decision within 10 days of the hearing. If no objection is filed, the Hearing Examiner may issue a decision without a public hearing.
 - vii. The height of a new pole, including any attached antennas and equipment, must not be taller than the height of the nearest pre-existing streetlight or utility pole:
 - (a) plus 6 feet when abutting a right-of-way with a paved section width of 65 feet or less, or up to 25 feet where the height of the pole being replaced is less than 20 feet tall, whichever is greater; or
 - (b) plus 15 feet when abutting a right-of-way with a paved section width greater than 65 feet.
- g. Any party aggrieved by the Hearing Examiner's decision may file a petition for judicial review under the Maryland rules within 15 days of the publication of the decision.

(Legislative History: Ord. No. 18-08, § 5; Ord. No. 18-44, §2.; Ord. No. 19-17, § 2.)

Section 3.5.3. Eating and Drinking

A. Country Inn

1. Defined

Country Inn means an establishment for dining in a rural area that may include a maximum of 12 overnight guest rooms and the following subordinate uses: rural antique shop; handicrafts or art sales; equestrian- related retail sales and service; and recreational facilities primarily for the use of guests.

2. Use Standards

- a. Where a Country Inn is allowed as a limited use, it must satisfy the following standards:
 - i. The property on which the use is located must have been in the Country Inn zone and be the subject of an approved development plan or development plan amendment before October 30, 2014, and must satisfy the development plan and any associated binding element or covenant applicable to the property as of October 29, 2014.
 - ii. A conditional use application for a Country Inn may be filed with the Hearing Examiner if this use standard cannot be met.

b. Where a Country Inn is not legally existing before October 30, 2014, it may be allowed as a conditional use by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

- i. The minimum lot area is 2 acres, or a lesser area if a master plan recommends a lesser area.
- ii. The maximum coverage is 10%.
- iii. A minimum of 50% of the lot must be open space.
- iv. The minimum setback from any street is 50 feet. The minimum setback from any other lot line is 75 feet.
- v. Except in a building designated as a historic resource by the Master Plan for Historic Preservation, in the R-200 zone, the proposed site must have at least one property line abutting R, RC, RNC, or AR zoned property and the abutting property zoned R, RC, RNC, or AR must be at least 2 acres in size.

B. Restaurant

1. Defined

Restaurant means any structure and land for the preparation and sale of food or drink for consumption. Restaurant includes catering, take-out services, and banquet facilities, but does not include a Drive-Thru (see Section 3.5.14.E, Drive-Thru).

2. Use Standards

- a. Where a Restaurant is allowed as a limited use, it must satisfy the following standards:
 - i. In the CRN zone, if the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
 - ii. In the IL and IM zone, a maximum of 3,500 square feet or 35% of the mapped FAR, whichever is greater, may be for Restaurant use or a combination of Office, Retail/Service Establishment, or Restaurant uses.
- b. Where a Restaurant is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

(Legislative History: Ord. No. 18-32, §1.)

Section 3.5.4. Funeral and Interment Services

A. Cemetery

1. Defined

Cemetery means a place used for the permanent interment of deceased persons or animals or their cremated remains. Cemetery does not include a memorial garden on the premises of a religious institution (see Section 3.4.10, Religious Assembly).

2. Use Standards

Where a Cemetery is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The proposed location must be compatible with adjacent land uses, and will not adversely affect the public health, safety, and welfare of the inhabitants of the area.
- b. Screening under Division 6.5 is not required; however, all grave sites must be sufficiently set back from surrounding properties to establish a buffer.
- c. Where the subject property is located in an area not served by public water and sewer, water table tests must be conducted to assure that there is adequate filtration of drainage between burial depth and the level of high water table.
- d. In the AR, R, and RC zones, a family burial site is allowed only as an accessory use on a residentially developed property and may only be approved on a lot or parcel that is appropriate to the circumstances and is a minimum of 25 acres in size. A family burial site must be set back a minimum of 100 feet from any abutting property in a Residential zone and a minimum of 50 feet from any existing or master-planned street. The use of any property for a family burial site must be recorded in the land records of Montgomery County. A family burial site is not restricted by Section 3.1.5, Transferable Development Rights.
- e. In the AR zone, a cemetery may be prohibited under Section 3.1.5, Transferable Development Rights.

B. Crematory

1. Defined

Crematory means a structure in which cremation occurs.

2. Use Standards

Where a Crematory is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

C. Funeral Home, Undertaker

1. Defined

Funeral Home, Undertaker means a facility that holds and transports human remains to and from the premises; embalms and caskets remains; allows visits to view the remains and conduct business with the establishment; and conducts funeral and memorial services, including organization of funeral processions.

2. Use Standards

- a. Where a Funeral Home, Undertaker is allowed as a limited use, it must satisfy the following standards:
 - i. The cremation of remains is prohibited.
 - ii. The funeral home may include a dwelling or sleeping facilities either as a separate building or a portion of the main building to be occupied by the owner or an employee of the establishment.

- iii. If public water and sewer are available they must be used for the operation of the facility. Where public water and sewer are not available, chemicals used for burial preparation are prohibited.
 - iv. Queuing of motor vehicles is prohibited in the public right-of-way.
 - v. If the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- b. Where a Funeral Home, Undertaker is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 3.5.4.C.2.a.i through Section 3.5.4.C.2.a.iii, Section 7.3.1, Conditional Use, and the following standards:
- i. The minimum side setback is 50 feet.
 - ii. The minimum rear setback is 50 feet.
 - iii. Frontage upon and access to a street or roadway having more than one through travel lane in each direction of travel.
 - iv. In the RE-2, RE-1, R-200, and R-90 zones, the minimum lot area is 2 acres.
 - v. In the AR zone, this use is allowed only where it is operating with a Cemetery established by conditional use approval before August 20, 2001. Also, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

(Legislative History: Ord. No. 18-08, § 5.)

Section 3.5.5. Landscape Contractor

A. Defined

Landscape Contractor means the business of designing, installing, planting, or maintaining lawns, gardens, hardscapes, water features, outdoor structures, decorative features, stormwater and drainage features, or other activities intended to enhance the appearance or usefulness of outdoor areas. Landscape Contractor also means providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape Contractor includes tree installation, maintenance, or removal. Landscape Contractor does not include Lawn Maintenance Service (see Section 3.5.14.G, Lawn Maintenance Service).

B. Use Standard

- a. Where Landscape Contractor is allowed as a limited use and the lot or parcel on which the use is located abuts a residential detached zone, screening under Section 6.5.3.C.7, Option B is required, without regard to applicability under Section 6.5.2.B.
- b. Where Landscape Contractor is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - 1. In the Agricultural, Rural Residential, and Residential Detached zones the minimum lot area is 2 acres. The Hearing Examiner may require a larger area if warranted by the size and characteristics of the inventory or operation.
 - 2. Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line.
 - 3. The number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on-site must be limited by the Hearing Examiner to avoid an adverse impact on abutting uses. Adequate parking must be provided on-site for the total number of vehicles and trailers permitted.
 - 4. Sale of plant materials, garden supplies, or equipment is prohibited unless the contracting business is associated with a Nursery (Retail) or Nursery (Wholesale).
 - 5. The Hearing Examiner may regulate hours of operation and other on-site operations to avoid adverse impact on abutting uses.

(Legislative History: Ord. No. 18-49, § 1; Ord. No. 19-07, § 2.)

Section 3.5.6. Lodging

A. Defined, In General

Lodging means a building, dwelling unit, or a portion of a dwelling unit used for the short-term overnight accommodation of paying guests.

B. Bed and Breakfast

1. Defined

Bed and Breakfast means a detached house with rooms for rent and where breakfast is customarily served to guests. A Bed and Breakfast is not a Short-Term Residential Rental.

2. Use Standards

- a. Where a Bed and Breakfast is allowed as a limited use, it must satisfy the following standards:
 - i. A Bed and Breakfast is prohibited in a dwelling unit that also provides guest rooms for roomers, or in a Farm Labor Housing Unit, or on a site that includes an Accessory Dwelling Unit.
 - ii. The display of a sign must include the official house number.
 - iii. Breakfast is the only meal that may be served and only to overnight guests, except as provided in Subsection 59.3.5.6.B.2.a.x.
 - iv. A guest must only remain in a Bed and Breakfast for a maximum of 14 days in any one visit.
 - v. A record of all overnight visitors must be maintained.
 - vi. The Bed and Breakfast must be registered with DPS.
 - vii. In the Agricultural, Rural Residential, and Residential zones, the minimum lot area is the greater of 9,000 square feet or the minimum lot area for a detached house building type in the zone.
 - viii. In the Agricultural, Rural Residential, and Residential zones, on a lot of less than 2 acres, a maximum of 3 bedrooms may be designated as guest rooms for which compensation is charged.

- ix. Except as provided in Subsection 59.3.5.6.B.2.a.x, a Bed and Breakfast must be in an owner-occupied house with no more than 5 guest rooms.
 - x. In the Agricultural and Rural Residential zones, a Bed and Breakfast located in any detached house or accessory building designated as historic on the Master Plan for Historic Preservation:
 - (a) may have no more than 10 guest rooms on any site;
 - (b) may serve overnight guests any meal; and
 - (c) must be occupied by either an owner or an owner-authorized manager.
 - xi. Parking must be located behind the front building line.
 - xii. In the AR zone, this use may be prohibited if not accessory to Farming under Section 3.1.5, Transferable Development Rights.
- b. Where a Bed and Breakfast is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards, Section 7.3.1, Conditional Use, and the following standards:
- i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than Neighborhood Connector standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.
 - ii. If there is inadequate space for parking behind the front building line, the Hearing Examiner may approve an alternative placement for parking.
 - iii. Screening under Division 6.5 is not required.
 - iv. To avoid an adverse neighborhood impact and assure that the residential use remains predominant, the Hearing Examiner may limit the number of transient visitors who may be accommodated at one time or the number of visits in any 30-day period.

C. Hotel, Motel

Defined

Hotel, Motel means a building containing guest rooms arranged for short-term accommodations of less than 30 days for compensation and may contain one or more restaurants, meetings rooms, or banquet facilities. Hotel, Motel includes a hostel.

(Legislative History: Ord. No. 18-36, § 1; Ord. No. 18-39, §2; Ord. No. 18-30, §4; Ord. No. 19-06, §4; Ord. No. 19-39, § 5.)

Section 3.5.7. Medical and Dental

A. Clinic (Up to 4 Medical Practitioners)

1. Defined

Clinic (Up to 4 Medical Practitioners) means a building occupied by up to 4 medical practitioners and related services to provide healthcare on an outpatient basis.

2. Use Standards

a. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a limited use, it must occupy 5 percent or less of the floor area of the principal use and be an accessory use to one of the following principal uses:

- i. Residential Care Facility (Over 16 Persons);
- ii. Charitable, Philanthropic Institution;
- iii. Day Care Center (Over 30 Persons);
- iv. Educational Institution (Private); or
- v. Religious Assembly.

If the principal use was approved as a conditional use or special exception, then this accessory use must satisfy the Minor Amendment provisions applicable to the principal use.

b. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- i. The minimum lot width at the front lot line is 100 feet.
- ii. The minimum setback from a lot that is vacant or residentially improved is 40 feet. The minimum setback from all other abutting lots is 20 feet.
- iii. The site must front on and have direct access to a Town Center Street or Downtown street or higher classification; however, access to a corner lot may be from an abutting street built to Neighborhood Connector standards, if the Hearing Examiner finds the access to be appropriate and not detrimental to existing residential uses on the Neighborhood Connector street.
- iv. Office space suitable for the practice of the profession must be unavailable in either the nearest Commercial/Residential or Employment zone or the nearest medical clinic office building constructed.
- v. A maximum of 4 additional medical practitioners may be present at any one time, and only if the presence of the additional practitioners will not generate additional patient-related traffic. The additional practitioners are only allowed to assist a practitioner in a specific surgical or diagnostic procedure or perform administrative work related to the treatment of patients onsite the same day. A written record must be kept for inspection by County enforcement staff identifying the physicians onsite and their schedules of seeing patients and performing administrative work.

B. Clinic (More than 4 Medical Practitioners)

1. Defined

Clinic (More than 4 Medical Practitioners) means a building occupied by more than 4 medical practitioners and related services to provide healthcare on an outpatient basis. Clinic (More than 4 Medical Practitioners) does not include emergency medical care accessory to a Hospital.

2. Use Standards

- a. Where a Clinic (More than 4 Medical Practitioners) is allowed as a limited use, the following conditions must be satisfied:
- i. If the use is located in a CRN zone and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
 - ii. If the use is not located in the CRN zone, it must occupy 5 percent or less of the floor area of the principal use and must be an accessory use to one of the following principal uses:
 - (a) Residential Care Facility (Over 16 Persons);
 - (b) Charitable, Philanthropic Institution;
 - (c) Day Care Center (Over 30 Persons);
 - (d) Educational Institution (Private); or
 - (e) Religious Assembly.
- If the principal use was approved as a conditional use or special exception, then this accessory use must satisfy the Minor Amendment provisions applicable to the principal use.
- b. Where a Clinic (More than 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

C. Medical, Dental Laboratory

Defined

Medical, Dental Laboratory means a private, non-profit, or research facility for the testing of blood and other clinical specimens, including a blood or plasma donation center. Medical, Dental Laboratory includes the fabrication of medical or dental appliances.

(Legislative History: Ord. No. 19-04, § 2; Ord. No. 19-39, § 5.)

Section 3.5.8. Office and Professional

A. Life Sciences

Defined

Life Sciences means the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. Life Sciences also includes a Hospital and uses accessory to a Hospital, other than medical/dental clinic. For a business, institution, or government agency conducting such activities in a Life Sciences Center, Life Sciences also includes related activities and supporting services, such as administrative offices, educational facilities, libraries, data services, nanotechnology, informational technology, and robotics.

B. Office

1. Defined

Office means a room, set of rooms, or a building where the business of a commercial or industrial organization or of a professional person is conducted. Office includes a chancery, but does not include medical or dental services (see Section 3.5.7, Medical and Dental) or Veterinary Office/ Hospital (see Section 3.5.1.C, Veterinary Office/Hospital).

2. Use Standards

- a. Where an Office is allowed as a limited use, it must satisfy the following standards:
- i. In the LSC zone, an Office for a company that is not principally engaged in health services, research and development, or high technology industrial activities is limited to 40% of the gross floor area on the subject site.
 - ii. In the IL and IM zone, a maximum of 35% of the mapped FAR may be for Office use or a combination of Office, Retail/Service Establishment, or Restaurant uses.
- b. Where an Office is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
- i. In the R-200, R-90, and R-60 zones:
 - (a) The Office must be in an existing detached house.
 - (b) Parking of more than one light commercial vehicle is prohibited.
 - (c) Exterior storage of goods or equipment is prohibited.
 - (d) Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.
 - (e) The storage of equipment or merchandise for collection by employees is prohibited.
 - (f) A minimum of 25% of the lot area is devoted to open space.
 - (g) In the R-60 zone, the site must be:
 - (1) designated as suitable for an Office or nonresident professional office in a master plan; and
 - (2) located along a highway with an existing right-of-way with a minimum width of 90 feet or along a portion of a Boulevard, Downtown Boulevard, Town Center Boulevard, Area Connector, Downtown Street, or Town Center Street designated as a boundary of a Central Business District area.
 - (h) In the R-90 zone, the site must:

- (1) be designated as historic in the Master Plan for Historic Preservation;
- (2) be located along a highway with an existing right-of-way that is at least 120 feet wide; and
- (3) contain a structure formerly used for nonresidential purposes.

(i) In the R-200 zone, the site must abut a fire station, police station, ambulance squad, or rescue squad on more than one lot line.

C. Research and Development

1. Defined

Research and Development means the study, research, and experimentation in one or more scientific fields such as life sciences, biomedical research, communications, chemistry, computer science, electronics, medicine, and physics. Research and Development also includes the development of prototypes and the marketing of resultant products and related activities, including administrative offices, educational facilities, libraries, and data services, and the manufacturing, mixing, fermentation, treatment, assembly, packaging, and servicing of products.

2. Use Standards

Where Research and Development is allowed as a limited use, it must satisfy the following standards:

- a. Manufacturing, mixing, fermentation, or treatment of resultant products for marketing purposes is prohibited.
- b. A maximum of 30% of the gross floor area may be used for assembly, packaging, and servicing of resultant products.

D. Signature Business Headquarters

1. Defined

Signature Business Headquarters means the headquarters or other primary place of business of a single commercial or industrial organization, including ancillary uses, that includes at least 20,000 employees located within a single Metro Station Policy Area.

2. Exemptions

- a. A sketch plan and a site plan are not required for a Signature Business Headquarters if the Planning Board approves a Signature Business Headquarters plan under Section 7.3.5.
- b. A Signature Business Headquarters plan is exempt from the binding elements and conditions of a development plan approved before May 24, 2018.

3. Use Standards

- a. Commercial and residential FAR limits on the subject property may be reallocated, as long as total FAR does not exceed the maximum total mapped FAR of the property.
- b. If the subject property has a mapped height of 150 feet or more, height may be exceeded by up to 100 feet, but no greater than a total height of 300 feet, if the Planning Board finds that the additional height is compatible with abutting and confronting development.
- c. The subject property may utilize FAR averaging under Section 4.5.2.B.

E. Biohealth Priority Campus

1. Defined

Biohealth Priority Campus means the headquarters or other primary place of business of a single commercial or industrial organization, including ancillary uses, that includes at least 150,000 square feet of new space to be constructed or 50,000 square feet of new space to be added to an existing building or group of buildings:

- a. that qualifies as a Life Sciences or Research and Development Use under Section 3.5.8 or as a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D; and
- b. is located on property:
 - i. within a red policy area including contiguous properties separated from a red policy area only by a public right-of-way;
 - ii. within an opportunity zone including contiguous properties separated from an opportunity zone only by a public right-of-way; or
 - iii. within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway.

2. Exemptions

- a. A sketch plan and a site plan are not required for a Biohealth Priority Campus if the Planning Board approves a Biohealth Priority Campus plan under Section 7.3.6.
- b. Development of a Biohealth Priority Campus should proceed under the standards of Chapter 50 and the underlying zone, including any overlay zones, except as modified by Section 3.5.8.E. and in conformance with the hearing and review schedule in Sections 7.3.6.C and 7.3.6.D.
- c. After a Biohealth Priority Campus Plan is approved, subsequent additions or expansions of the Biohealth Priority Campus, in any size or amount, will be processed under Section 7.3.6 as amendments.

3. Use Standards

- a. Residential FAR limits on the subject property may be reallocated to commercial FAR if the total FAR does not exceed the maximum total mapped FAR of the property and the building height does not exceed the maximum mapped height, including any increases in each allowed by this Chapter.
- b. A mechanical penthouse, and the roof structures listed in Section 4.1.7.C.3, may occupy a maximum of 50% of the roof area of any individual building.
- c. The subject property may utilize FAR averaging under Sections 4.5.2.B. and 4.6.2.B.

(Legislative History: Ord. No. 18-45, §3; Ord. No. 19-27, § 3; Ord. No. 19-31, § 1; Ord. No. 19-39, § 5.)

Section 3.5.9. Parking

A. Defined, In General

Parking means a lot or structure that provides parking for motor vehicles where the facility is the principal use and a fee may be charged.

B. Structured Parking Defined

Structured Parking means a one or more level free-standing structure for parking or storing motor vehicles that does not share a common floor or ceiling with another use allowed in the zone. Structured Parking does not include Surface Parking.

C. Surface Parking for Use Allowed in the Zone

1. Defined

Surface parking for Use Allowed in the Zone means surface parking in connection with any permitted or limited use allowed in the zone where no building or other use requiring parking is on the same lot, or surface parking allowed in a detached residential zone by a special exception approved before October 30, 2014.

2. Use Standards

Where Surface Parking for Use Allowed in the Zone is allowed as a limited use, it must satisfy the following standards:

- a. Where a sketch plan is required, the surface parking is only allowed as part of an approved phasing plan and the Planning Board finds that the layout is safe, efficient, and compatible with adjacent development.
- b. Where a sketch plan is not required:
 - i. the parking layout must accommodate the landscaping required under Section 6.2.9; and
 - ii. in the CRT, CR, LSC, and EOF zones:
 - (a) the surface parking must be providing parking for a use on an abutting lot or be a municipal public parking lot; and
 - (b) for properties on a Downtown Street or Town Center Street, site plan approval is required under Section 7.3.4. The Planning Board must find that the surface parking supports commercial or residential uses that substantially conform with the recommendations of the applicable master plan.
- c. Whether or not a sketch plan is required, where parking located in a residential detached zone was approved as a special exception in connection with a commercial use, site plan approval under Section 7.3.4 may supersede the previously approved special exception at the option of the applicant.

D. Surface Parking for Commercial Uses in an Historic District

1. Defined

Surface Parking for Commercial Uses in an Historic District means the parking of motor vehicles on land zoned Agricultural, Rural Residential, or Residential in a master plan-designated historic district, where the parking must abut land zoned Commercial/Residential or Employment in the same master plan-designated historic district.

2. Use Standards

- a. Where Surface Parking for Commercial Uses in an Historic District is allowed as a limited use, it must satisfy the following standards:
 - i. The land zoned Agricultural, Rural Residential, or Residential is currently vacant. Removing or relocating structures to provide parking is prohibited.
 - ii. The amount of parking proposed is the minimum required under Division 6.2, Parking, Queuing, and Loading for the commercial use proposed. Providing extra spaces is prohibited.
 - iii. The parking area must be located behind the front building line of the commercial structure being served by the parking; however, for a through lot with 2 front setbacks, parking must normally front on the road with the lesser classification.
 - iv. Review and approval of the proposed parking must be obtained from the Historic Preservation Commission through the Historic Area Work Permit process under Chapter 24 (Section 24A-7).
 - v. In the AR, R, RE-2, RE-2C, RE-1, and R-200 zones, site plan approval is required under Section 7.3.4.
- b. Where Surface Parking for Commercial Uses in an Historic District is allowed as a conditional use, it may be permitted by the Hearing Examiner under all applicable limited use standards and Section 7.3.1, Conditional Use. Screening under Division 6.5 is not required.

(Legislative History: Ord. No. 19-15, § 1; Ord. No. 19-39, § 5.)

Section 3.5.10. Recreation and Entertainment

A. Adult Entertainment

1. Defined

Adult Entertainment means an establishment that:

- a. sells, rents, exhibits, or displays adult entertainment materials using a floor area that is more than 10% of the total floor area for selling, renting, exhibiting, or displaying all materials;
- b. features nude persons in adult entertainment performances; or
- c. otherwise requires a County license as an Adult Entertainment business.

2. Use Standards

Where Adult Entertainment is allowed as a limited use, it must satisfy the following standards:

- a. The adult entertainment materials must not be visible from outside the establishment.
- b. Access to the adult entertainment materials must be prohibited to any person under the age of 18 years.
- c. The Adult Entertainment business must be located a minimum of 750 feet from any property that is

- i. located in a Residential zone; or
- ii. on which a school, library, park, playground, recreational facility, day care center, place of worship, or other Adult Entertainment business is located as a principal use.

The distance must be measured in a straight line from the nearest lot line of the subject property to the nearest point of the boundary line of any property located in a Residential zone, or on which a school, library, park, playground, recreational facility, day care center, place of worship or other Adult Entertainment business is located.

- d. An Adult Entertainment business may continue as a nonconforming use if a school, library, park, playground, recreational facility, day care center, place of worship, or Agricultural or Residential zone is established within 750 feet of the Adult Entertainment business after the business was established.
- e. An Adult Entertainment business may operate only between the hours of 9:00 a.m. and 11:00 p.m.
- f. If adult booths are located on the premises:
 - i. The booths must be physically arranged so that the entire interior portion of the booth is visible from the common areas of the premises;
 - ii. Doors or curtains that screen the booth's interior from the common areas of the premises are prohibited;
 - iii. The booths must be designed to prevent physical contact with another person;
 - iv. The booths must be illuminated at all times;
 - v. Holes in the partitions between the adult booths are prohibited; and
 - vi. Persons under the age of 18 are prohibited from entering the premises.

B. Campground

1. Defined

Campground means a parcel, lot, or tract of land used for 2 or more tent or recreational vehicle campsites. Campground does not include sites for manufactured homes.

2. Use Standards

Where a Campground is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. In the R zone, applicants may choose to apply the standards under either Section 3.5.10.B.2.b. or Section 3.5.10.B.2.c.
- b. In the R and RE-2C zones:
 - i. The maximum density of campsites is 15 campsites per acre of the developed portion of the Campground, inclusive of service roads, toilet facilities and service buildings.
 - ii. Each campsite, excluding parking space, is a minimum of 900 square feet.
 - iii. The site is a minimum of 10 acres and has a minimum frontage of 150 feet abutting a public right-of-way unless the Hearing Examiner waives the requirement for a minimum frontage where it finds that access for vehicular traffic is adequate.
 - iv. All campsites are located a minimum of 100 feet from any property line, and a minimum of 125 feet from the centerline of any public right-of-way.
 - v. Screening under Division 6.5 is not required.
- c. In the AR, R, and RC zones:
 - i. Campground must be located on a property used for Farming as defined in Section 3.2.6.
 - ii. The minimum size of the property must be 25 acres.
 - iii. No more than 5 percent of the property or 5 acres, whichever is smaller, may be used for a Campground.
 - iv. All campsites are located a minimum of 100 feet from any property line, and a minimum of 125 feet from the centerline of any public right-of-way.
 - v. The maximum number of tents, recreational vehicles, or other sleeping accommodations is as follows:
 - (a) for a property that is 25 to 100 acres, a maximum of 5 tents, recreational vehicles, or other sleeping accommodations is permitted; and
 - (b) for a property that is over 100 acres, a maximum of 10 tents, recreational vehicles, or other sleeping accommodations is permitted, with a maximum of 5 recreational vehicles.
 - vi. The maximum size of each tent or other sleeping accommodations is a gross floor area of 200 square feet.
 - vii. No heating, ventilation, and air conditioning (HVAC) systems or kitchens are permitted within the same structure as the sleeping quarters, unless inside a recreational vehicle.
 - viii. No gas-powered generators are permitted attached to the same structure as the sleeping quarters, unless attached to a recreational vehicle.
 - ix. DPS approved sanitation facilities are only permitted in a structure separate from the sleeping quarters, unless inside a recreational vehicle.
 - x. A guest may stay a maximum of 3 consecutive nights.
 - xi. No sleeping accommodations may have permanent location on the ground, including the pouring of concrete or the laying of a permanent foundation.
 - xii. All sleeping accommodations must be made of a combination of materials that is easily relocatable.
 - xiii. No tents, recreational vehicles, or other sleeping accommodations are permitted within a stream buffer or floodplain, and the cutting down of trees for this use is prohibited.

C. Conference Center

1. Defined

Conference Center means a facility for conducting meetings, discussions, and conferences. Conference Center includes meeting rooms, auditoriums, cafeterias, dining rooms, recreational uses, and supporting services designed to accommodate planned meetings. Conference Center does not include a Hotel, Motel (see Section 3.5.6.C, Hotel, Motel).

2. Use Standards

Where a Conference Center is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

D. Golf Course, Country Club

1. Defined

Golf Course, Country Club means the course and surrounding land maintained for the game of golf, including accessory maintenance facilities, putting greens and driving ranges, and club houses that may contain locker rooms, restaurants, pro shops, tennis courts, and pools. Golf Course, Country Club includes the provision of food, refreshments, and entertainment for club or organization members and their guests.

2. Use Standards

Where a Golf Course, Country Club is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The maximum coverage is no more than 3%.
- b. The minimum setback for a principal building is 50 feet.
- c. In a Residential zone, the minimum frontage is 200 feet on a road of Area Connector or higher classification.
- d. All major outdoor activity areas, golf course playing surfaces, and accessory uses such as tennis courts and swimming pools must be set back a minimum of 100 feet from lot lines abutting a property in a Residential Detached zone. The Hearing Examiner may reduce this setback where it finds that landscaping, screening, fencing or other measures can mitigate the adverse effects on the abutting residential use.
- e. Screening under Division 6.5 is not required.

E. Health Clubs and Facilities

1. Defined

Health Clubs and Facilities means any establishment designed to enhance the physical conditioning and general health of participants. Health Clubs and Facilities includes dance, martial arts, and yoga studios.

2. Use Standards

Where Health Clubs and Facilities is allowed as a limited use, it must satisfy the following standards:

- a. In the CRN zone, if the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- b. In the NR zone, the maximum size is 40% of the gross floor area in non-residential use. The gross floor area in non-residential use must be calculated after any reconstruction or enlargement.

F. Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons)

1. Defined

Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons) means a building with a capacity up to 1,000 people that provides recreation or entertainment activities such as sport facilities, theaters, and dance clubs. Recreation and Entertainment Facility, Indoor does not include Shooting Range (Indoor) (see Section 3.5.10.I, Shooting Range (Indoor)) or Health Clubs and Facilities (see Section 3.5.10.E, Health Clubs and Facilities).

2. Use Standards

- a. Where a Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons) is allowed as a limited use, its capacity is limited to 250 people. A conditional use application may be filed with the Hearing Examiner to increase capacity up to 1,000 people.
- b. Where a Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standard:

The Hearing Examiner may deny the application if it finds the use would be inconsistent with the intent of the zone due to the facility's size, intensity, level of noise, traffic activity, hours of operation, or lighting.

G. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons)

1. Defined

Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons) means a structure or land with a capacity up to 1,000 people providing recreation activities outside of a building. Recreation and Entertainment Facility, Outdoor includes golf driving range, but does not include Golf Course, Country Club (see Section 3.5.10.D, Golf Course, Country Club), or Shooting Range (Outdoor) (see Section 3.5.10.J, Shooting Range (Outdoor)).

2. Use Standard

Where a Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

- a. In the RE-2C zone:
 - i. Only a group picnic, catering and recreation facility is allowed.
 - ii. The site must be a minimum of 80 acres.
 - iii. The maximum building height is 50 feet.

- iv. Any structure or building must be set back from any lot line a minimum of 50 feet.
 - v. The site must have direct access to a public road that is built to Neighborhood Collector or higher standards.
 - vi. Screening under Division 6.5 is only required for outdoor catering and recreational facilities.
 - vii. Off-street parking must be sufficient to accommodate the number of people participating in the events.
- b. In the R-200 zone:
- i. Only an outdoor catering facility is allowed. An enclosed food preparation building is allowed but all catering parties must be held under pavilions, or in the open, and may include various recreational activities.
 - ii. The site must be a minimum of 80 acres.
 - iii. The maximum building height is 20 feet.
 - iv. Any structure, building, or parking area must be setback from any lot line a minimum of 100 feet.
 - v. The site must have direct access to a public road that is built to Neighborhood Collector or higher standards.
- c. In the Commercial/Residential, Employment, and Industrial zones, in addition to screening under Division 6.5, when the use abuts a lot in any Residential zone, a solid wall or solid fence a minimum of 6 feet in height must be constructed and maintained between the use and the lot line.
- d. Parking must be sufficient to accommodate the number of people participating in the events.
- e. The Hearing Examiner may deny the application if it finds the use would be inconsistent with the intent of the zone due to the facility's size, intensity, level of noise, traffic activity, hours of operation, or lighting.

H. Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons)

1. Defined

Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons) means a structure or land for performances, cultural or sporting events, or general public interest events that is a place of assembly for over 1,000 participants or attendees.

2. Use Standards

Where a Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. In the RE-2C zone:
 - i. Only a group picnic, catering and recreation facility is allowed.
 - ii. The site must be a minimum of 80 acres.
 - iii. The maximum building height is 50 feet.
 - iv. Any structure or building must be set back from any lot line a minimum of 50 feet.
 - v. The site must have direct access to a public road that is built to Neighborhood Connector or higher standards.
 - vi. Screening under Division 6.5 is only required for outdoor catering and recreational facilities.
 - vii. Off-street parking must be sufficient to accommodate the number of people participating in the events and adequately screened.
- b. In the Commercial/Residential, Employment, and Industrial zones, in addition to screening under Division 6.5, when the use abuts a lot in any Residential zone, a solid wall or solid fence a minimum of 6 feet in height must be constructed and maintained between the use and the lot line.
- c. If the use is outdoors, parking must be sufficient to accommodate the number of people participating in the events.
- d. The Hearing Examiner may deny the application if it finds the use would be inconsistent with the intent of the zone due to the facility's size, intensity, level of noise, traffic activity, hours of operation, or lighting.

I. Shooting Range (Indoor)

1. Defined

Shooting Range (Indoor) means an area in a building with targets for rifle or handgun practice.

2. Use Standard

Where a Shooting Range (Indoor) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

J. Shooting Range (Outdoor)

1. Defined

Shooting Range (Outdoor) means any structure, not including a building, or land with targets for rifle, pistol, skeet, or trap shooting practice.

2. Use Standard

Where a Shooting Range (Outdoor) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. Adjacent areas are predominantly undeveloped.
- b. The hours of operation are compatible with an existing uses.
- c. The use is established for a maximum of 3 years, but may be renewed by the Hearing Examiner.

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

(Legislative History: Ord. No. 19-39, § 5; Ord. No. 20-13, § 2.)

Section 3.5.11. Retail Sales and Service

A. Combination Retail

1. Defined

Combination Retail means a department or retail store that exceeds 65,000 square feet and that includes a pharmacy and a full line of groceries. Combination Retail does not include a grocery store, or a club or membership store that charges a membership or access fee and sells primarily bulk merchandise (See Section 3.5.11.B, Retail/Service Establishment).

2. Use Standards

Where Combination Retail is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The building must be designed in a way that reduces its scale and contributes to its visual interest. Long building walls should have projections, recessions, or other effective treatments that improve building design.
- b. Where Combination Retail 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:
 - i. 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.
 - ii. Parking facilities, excluding access driveways, must be located below- grade or in a structure behind or within the primary building.
 - iii. The maximum building footprint of the area designed for a single Combination Retail use is 80,000 square feet.
 - iv. Additional floor area equal to at least 20% of the footprint designed for the Combination Retail 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 Combination Retail 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 Combination Retail is located.
 - v. If applicable, full architectural parapets or equivalent features must be used around the entire building to conceal rooftop mechanical equipment.
 - vi. Any residential floor area or office floor area must be equal to or greater than the gross floor area designed for the Combination Retail. At least 50% of the gross floor area of the non-retail component must be located above the street level retail footprint.
 - vii. Section 3.5.11.A.2.b.iii through Section 3.5.11.A.2.b.vi do not apply if more than 75% of the gross floor area of the Combination Retail is a cellar.

B. Retail/Service Establishment

1. Defined

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

2. Use Standards

- a. Where a Retail/Service Establishment is allowed as a limited use, it must satisfy the following standards:
 - i. In the R-10 zone:
 - (a) The apartment building type must contain a minimum of 150 dwelling units, be a minimum of 60 feet in height, and be on a site with a minimum of 5 acres.
 - (b) A maximum of 10% of the gross floor area of the building or 10,000 square feet, whichever is less, may be used for the Retail/Service Establishment use.
 - (c) Only small-scale retail sales and personal service establishments are permitted. Small-scale retail sales and personal service establishments provide convenience goods and services typically requiring frequent purchase and a minimum of travel by occupants of the nearby commercial area and adjacent residential neighborhood.
 - ii. In the CRN zone:
 - (a) If the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
 - (b) A Retail/Service Establishment over 15,000 square feet of gross floor area must be a grocery store.
 - iii. In the CRT, GR, and NR zones, if the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
 - 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 largest single Retail/Service Establishment is located.

- (e) If applicable, full architectural parapets or equivalent features must be used around the entire building to conceal rooftop mechanical equipment.
- (f) Any residential floor area or office floor area must be equal to or greater than the gross floor area designed for the subject Retail/ Service Establishment. At least 50% of the gross floor area of the non-retail component must be located above the street level retail footprint.
- (g) Section 3.5.11.B.2.a.iv.(c) through Section 3.5.11.B.2.a.iv.(f) do not apply if more than 75% of the gross floor area of the Retail/ Service Establishment is a cellar.
- (h) For a project greater than 500,000 square feet of gross floor area, the Planning Board may approve a development that does not satisfy Section 3.5.11.B.2.a.iv.(a) through Section 3.5.11.B.2.a.iv. (f) if it finds that the project, through an alternative design, results in a more appropriate configuration of the site.
- (i) Section 3.5.11.B.2.a.iv does not apply to a regional shopping center.

v. In the EOF zone, Retail/Service Establishment is limited to a maximum of 30% of the gross floor area on the subject site.

vi. In the LSC zone, if the tract is larger than 5 acres, Retail/Service Establishment is limited to a maximum of 10% of the gross floor area of development approved under one application. If site plan approval is required under Section 7.3.4, the Planning Board may approve a maximum of 15% of the gross floor area for Retail/Service Establishment if the Planning Board finds that unique circumstances are present and the area would be enhanced by additional retail activity.

vii. In the IL and IM zones, Retail/Service Establishment is limited to:

- (a) building and food service supply, home design and furnishings, wholesale or retail;
- (b) computer programming and software sales and service, including data banks, and data retrieval;
- (c) wholesale trades limited to sale or rental of products intended for industrial or commercial users; and
- (d) other Retail/Service Establishment uses or a combination of Office, Retail/Service Establishment, or Restaurant uses that occupy a maximum of 35% of the mapped FAR.

viii. In the IH zone, Retail/Service Establishment is limited to:

- (a) building and food service supply, home design and furnishings, wholesale or retail;
- (b) computer programming and software sales and service, including data banks, and data retrieval; and
- (c) wholesale trades limited to sale or rental of products intended for industrial or commercial users.

ix. For Retail/Service Establishments 120,001 square feet and over:

- (a) Any facade longer than 100 horizontal feet must incorporate wall plane projections or recesses.
- (b) Street level retail facades that front public or private streets or parking areas must provide transparent glazing for at least 60 percent of the horizontal length of the building façade as measured from a height of no more than 3 feet above the walkway grade to no more than 8 feet above the walkway grade. Transparent glazing includes transparent windows, unobstructed display windows, or transparent store doors.
- (c) All sides of a building that front an abutting public right-of-way must have at least one active retail, residential, or office entrance.
- (d) Areas for storage, truck parking, trash collection, or compaction and loading must be screened from public rights-of-way.
- (e) Variations in rooflines must be used when possible. Full architectural parapets or equivalent features must be used around the entire building to conceal rooftop mechanical equipment.

C. Rural Antique Shop

1. Defined

Rural Antique Shop means the sale in a rural or residential area of items belonging to, made in, or typical of an earlier period.

2. Use Standards

Where a Rural Antique Shop is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The shop must be located in an existing building or part of an existing building.
- b. The original character of the building must be maintained.
- c. The structure must be 5 or more years old.
- d. If the property is located in the R-200 zone, it must abut land in the AR zone.
- e. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

D. Rural Country Market

1. Defined

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

2. Use Standards

a. Where a Rural Country Market is allowed as a limited use, it must satisfy the following standards:

- i. The minimum tract area is 2 acres.
- ii. The maximum height is 20 feet, unless located in an existing building.
- iii. The minimum setback from the street and from any side or rear lot line is 50 feet.

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

- i. The minimum setback from the street under 3.5.11.D.2.a.iii. may be reduced to 25 feet if the Hearing Examiner finds that the smaller setback would be compatible with surrounding uses.
- ii. The Hearing Examiner may approve the use of an existing structure that does not meet these requirements if the Hearing Examiner finds that the use is suitable and compatible with the surrounding area.

E. Vape Shop

1. Defined

Vape Shop means any Retail or Service Establishment that devotes at least 51% of its floor area to the sale and display of electronic cigarettes or allows vaping on site. An electronic cigarette is any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term electronic cigarette includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

2. Use Standards

Where a Vape Shop is allowed as a limited use, it must satisfy the following standards:

- a. Access to the Vape Shop must be prohibited to any person under the age of 21 years old.
- b. The Vape Shop must be located a minimum of 0.5 miles from any property on which a middle school or high school is located as a principal use.
- c. A Vape Shop may continue as a nonconforming use if a middle or high school is established within 0.5 miles of a Vape Shop after the Vape Shop was established. For purposes of these standards, a Vape Shop or school is established when the Department of Permitting Services issues a use-and-occupancy permit.
- d. In the IL and IM zones, a Vape Shop may occupy a maximum of 35% of the mapped FAR on the subject site.

3. Amortization Period

To provide for a reasonable period of amortization and to prevent unreasonable economic loss, any Vape Shop existing on June 29, 2020 which does not conform to the requirements of this section may continue to operate for 24 months following the effective date of the amendment. On or after that date, a Vape Shop may continue in operation only if it meets the requirements of Section 59.3.5.11.E.

(Legislative History: Ord. No. 18-08, § 5; Ord. No. 18-12, § 1; Ord. No. 19-10, § 3; Ord. No. 20-09, § 6.)

Section 3.5.12. Vehicle/Equipment Sales and Rental

A. Heavy Vehicle Sales and Rental

1. Defined

Heavy Vehicle Sales and Rental means the sales, rental, or leasing of heavy equipment, manufactured homes, and commercial vehicles, including 18-wheelers, commercial box trucks, high-lifts, and construction and heavy earth-moving equipment.

2. Use Standards

Where Heavy Vehicle Sales and Rental is allowed as a limited use, it must satisfy the following standards:

- a. Vehicles must be stored or parked only on a surfaced parking area that is constructed of material resistant to erosion, is adequately treated to prevent dust emission, and is surrounded by a raised curb. The parking and storage area must be set back a minimum of 15 feet from any right-of-way, 30 feet from any lot line abutting land in a Residential zone, and 3 feet from any other lot line.
- b. A minimum of 20 feet between access driveways on each street is required, and all driveways must be perpendicular to the curb or street line.
- c. On a corner lot, the access driveway must be located a minimum of 20 feet from the intersection of the rights-of-way, and is a maximum of 30 feet in width.
- d. Product displays, parked vehicles and other obstructions, which would adversely affect visibility at intersections or to driveways are prohibited.

B. Light Vehicle Sales and Rental (Indoor)

1. Defined

Light Vehicle Sales and Rental (Indoor) means a building for the indoor sales, rental, or leasing of light equipment and vehicles, including vehicles for hauling and moving. Light Vehicle Sales and Rental (Indoor) includes the repair of vehicles and equipment for sale, rent, or lease as an incidental use if conducted indoors. Light Vehicle Sales and Rental (Indoor) includes indoor and outdoor display and storage of vehicles for sale and an accessory car wash for vehicles and equipment for sale, rent, or lease.

2. Use Standards

- a. Where Light Vehicle Sales and Rental (Indoor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:
 - i. Access to the site from a street with a residential classification is prohibited.
 - ii. Site plan approval is required under Section 7.3.4.
- b. In the EOF zone, the tract on which a Light Vehicle Sales and Rental (Indoor) use is allowed must also be:

- i. less than 10 acres in size;
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
 - iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified as an Area Connector or higher classification roadway.
- c. In the NR zone, a Light Vehicle Sales and Rental (Indoor) use allowed as a limited use must also be in a contiguously NR-zoned area of at least five acres in size.

C. Light Vehicle Sales and Rental (Outdoor)

1. Defined

Light Vehicle Sales and Rental (Outdoor) means the sales, rental, or leasing of light equipment and vehicles, including vehicles for hauling and moving, outside of a building. Light Vehicle Sales and Rental (Outdoor) includes the repair of vehicles and equipment for sale, rent, or lease as an incidental use if conducted indoors. Light Vehicle Sales and Rental (Outdoor) includes outdoor storage of vehicles for sale, and an accessory car wash for vehicles and equipment for sale, rent, or lease.

2. Use Standards

- a. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:
 - i. Access to the site from a street with a residential classification is prohibited.
 - ii. Vehicles must be stored or parked only on a hard surface that is constructed of material resistant to erosion, is adequately treated to prevent dust emission, and is surrounded by a raised curb. The parking and storage area must be set back 15 feet from any right-of-way, 15 feet from any lot line abutting land in an Agricultural, Rural Residential, or Residential Detached zone, and 3 feet from any other lot line.
 - iii. There must be a minimum of 20 feet between access driveways, and all driveways must be perpendicular to the curb or street line.
 - iv. When such use occupies a corner lot, an access driveway is prohibited within 20 feet from the intersection of the rights-of-way and cannot exceed 30 feet in width.
 - v. Product displays, parked vehicles, and other obstructions, which would adversely affect visibility at intersections or to driveways, are prohibited.
 - vi. In the CRT zone, site plan approval is required under Section 7.3.4.
- b. In the EOF zone, the tract on which a Light Vehicle Sales and Rental (Outdoor) use is allowed must also be:
 - i. less than 10 acres in size;
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
 - iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified as an Area Connector or higher classification roadway.
- c. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a conditional use, it may be permitted by the Hearing Examiner under all applicable limited use standards, and Section 7.3.1, Conditional Use.

(Legislative History: Ord. No. 18-13, § 2; Ord. No. 19-32, § 2; Ord. No. 19-39, § 5.)

Section 3.5.13. Vehicle Service

A. Automobile Storage Lot

1. Defined

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

2. Use Standards

- a. Where an Automobile Storage Lot is allowed as a limited use, it must satisfy the following standards:
 - i. Vehicles must be stored or parked only on a hard surface that is constructed of impervious material resistant to erosion, is adequately treated to prevent dust emission, and is surrounded by a raised curb. The parking and storage area must be set back 15 feet from any right-of-way, 25 feet from any lot line abutting land in an Agricultural, Rural Residential, or Residential Detached zone, and 3 feet from any other lot line.
 - ii. Access to the site from a street with a residential classification is prohibited.
 - iii. The tract on which an Automobile Storage Lot use is allowed must be less than 10 acres in size.
 - iv. On-site illumination must be 0.5 footcandles or less at the lot line, excluding street lights within the right-of-way.
- b. Where an Automobile Storage Lot is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

B. Car Wash

1. Defined

Car Wash means any structure or land with mechanical or hand-operated facilities used for cleaning, washing, polishing, or waxing of motor vehicles.

2. Use Standards

- a. Where a Car Wash is allowed as a limited use, it must satisfy the following standards:

- i. When a Car Wash occupies a corner lot, driveways must be located a minimum of 20 feet from the intersection of the rights-of-way.
- ii. Obstructions which adversely affect visibility at intersections or to the Car Wash driveways are prohibited.
- iii. All driveways must be perpendicular to the curb or street line.
- iv. Vehicle stacking space must be equivalent to 5 times the vehicle capacity of the automatic car wash or 3 times the vehicle capacity of the manual car wash bays.
- v. The applicant must demonstrate that the vehicles using the Car Wash will not queue off-site.
- vi. Where the subject lot abuts or confronts a property zoned Residential that is vacant or improved with a residential use:
 - (a) All buildings must be set back a minimum of 100 feet from the abutting residential lot line; and
 - (b) All parking and drive aisles for vehicles must be set back a minimum of 50 feet from the abutting residential lot line.
- b. Where a Car Wash is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards and Section 7.3.1, Conditional Use.

C. Filling Station

1. Defined

Filling Station means a facility used primarily to dispense motor vehicle fuels or otherwise provide energy to a consumer's vehicle by any technology. Filling Station includes minor repair services as an accessory use and an accessory car wash where mechanical or hand-operated facilities used for the cleaning, washing, polishing, or waxing of motor vehicles are limited to 2 bays. Filling Station does not include storage or parking offered for rent, except for car-share space.

2. Use Standards

Where Filling Station is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. Access to the site from a street with a residential classification is prohibited if:
 - i. it is the only access to the Filling Station, or
 - ii. it is the primary entrance to a Filling Station with more than 1 entrance.

The Hearing Examiner may allow a Filling Station with access on a residential street as a secondary entrance if it finds that the access will not have an adverse impact on neighboring residential houses.

- b. Site lighting is a maximum of 0.1 footcandles at the lot line when the subject lot abuts a Residential zone. Site lighting is a maximum of 0.5 footcandles at the lot line when the subject lot abuts all other zones.
- c. Any Filling Station facility designed to dispense a minimum of 3.6 million gallons per year must be located at least 500 feet from the lot line of any land with a dwelling unit; public or private school; park; playground; day care center; any outdoor use categorized as a Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area.
- d. Product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways are prohibited.
- e. When such use occupies a corner lot, the driveways must be located a minimum of 20 feet from the intersection of the rights-of-way and must not exceed 30 feet in width.
- f. Each gasoline pump or other service appliance must be located on the lot a minimum of 10 feet behind the setback line; and all service, storage, or similar activities in connection with the use must be conducted entirely within the building, except for car-share space.
- g. There must be a minimum of 20 feet between driveways on each street, and each driveway must be perpendicular to the curb or street line. The Hearing Examiner may waive the perpendicular driveway requirement if the Department of Transportation deems the alternative safe.
- h. Vehicle parking that overhangs the public right-of-way is prohibited.
- i. If the Filling Station facility includes a car wash, it must:
 - i. provide vehicle stacking space equivalent to 5 times the vehicle capacity of the automatic car wash and 3 times the vehicle capacity of the manual car wash bays; and
 - ii. demonstrate that the vehicles using the car wash will not queue off-site.
- j. The Hearing Examiner must find there is adequate parking for all accessory uses.

D. Repair (Commercial Vehicle)

Defined

Repair (Commercial Vehicle) means the repair, service, or accessory installation for aircraft or commercial vehicles, including box trucks, 18-wheelers, and construction and other heavy equipment. Repair (Commercial Vehicle) includes the sale of fuel for aircraft.

E. Repair (Major)

1. Defined

Repair (Major) means an establishment where general vehicle repair and service is conducted, including engine and transmission replacement or rebuild, body, and paint shops. Repair (Major) does not include repair or services for commercial vehicles or heavy equipment (see Section 3.5.13.D, Repair (Commercial Vehicle)).

2. Use Standards

- a. Where Repair (Major) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Residential that is vacant or im-proved with a residential use, it is subject to the following standards:
 - i. All buildings must be set back a minimum of 100 feet from the abutting residential lot line.

- ii. All parking and storage for vehicles must be set back a minimum of 50 feet from the abutting residential lot line.
 - iii. The minimum site is 20,000 square feet if not fully contained in a structure.
 - iv. Access to the site from a street with a residential classification is prohibited.
- b. In the EOF zone, the tract on which a Repair (Major) use is allowed must also be:
- i. less than 10 acres in size; and
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
 - iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified as an Area Connector or higher classification roadway.
- c. Where Repair (Major) is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards and Section 7.3.1, Conditional Use.

F. Repair (Minor)

1. Defined

Repair (Minor) means an establishment where minor vehicle repair and service is conducted, including audio and alarm installation, custom accessories, quick lubrication facilities, scratch and dent repair, bed-liner installation, tires, brakes, mufflers, and glass repair or replacement. Repair (Minor) does not include repair or services for commercial vehicles or heavy equipment (see Section 3.5.13.D, Repair (Commercial Vehicle)).

2. Use Standards

- a. Where Repair (Minor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:
- i. All buildings must be set back a minimum of 50 feet from the abutting residential lot line.
 - ii. All parking and storage for vehicles must be set back a minimum of 25 feet from the abutting residential lot line.
 - iii. The minimum site is 20,000 square feet.
 - iv. Access to the site from a street with a residential classification is prohibited.
 - v. In the CRT zone, site plan approval is required under Section 7.3.4.
- b. Where Repair (Minor) is allowed as a conditional use, it may be permitted by the Hearing Examiner under all applicable limited use standards, Section 7.3.1, Conditional Use, and the following standards:

In the NR zone:

- i. This use must be conducted entirely within a building containing a maximum of 3 service bays.
- ii. Product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways are prohibited.
- iii. When a Repair (Minor) use occupies a corner lot, the driveways must be located a minimum of 20 feet from the intersection of the rights-of-way and must not exceed 30 feet in width.
- iv. There must be a minimum of 20 feet between driveways, and each driveway must be perpendicular to the curb or street line. The Hearing Examiner may waive the perpendicular driveway requirement if the Department of Transportation deems the alternative safe.
- v. Vehicle parking that overhangs the public right-of-way is prohibited.

(Legislative History: Ord. No. 18-07, § 1; Ord. No. 18-13, § 2; Ord. No. 19-39, § 5; Ord. No. 20-09, § 6.)

Section 3.5.14. Accessory Commercial Uses

A. Amateur Radio Facility (Up to 65 Feet in Height)

Defined

Amateur Radio Facility (Up to 65 Feet in Height) means any structure used for personal, noncommercial radio communications licensed by the Federal Communications Commission up to 65 feet in height.

B. Amateur Radio Facility (Over 65 Feet in Height)

1. Defined

Amateur Radio Facility (Over 65 Feet in Height) means any structure used for personal, non-commercial radio communications licensed by the Federal Communications Commission over 65 feet in height.

2. Use Standards

Where an Amateur Radio Facility (Over 65 Feet in Height) is allowed, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

- a. The applicant must demonstrate that the additional height is the minimum needed to engage in radio communications under a license issued by the Federal Communications Commission.
- b. Screening under Division 6.5 is not required.

C. Antenna on Existing Structure

1. Defined

Antenna on Existing Structure means one or more antennas attached to an existing support structure, including a building, a transmission tower, a monopole, a light pole, a utility pole, a water tank, a silo, a barn, a sign, or an overhead transmission line support structure. Antenna on Existing Structure includes related equipment.

2. Use Standards

Where an Antenna on Existing Structure is allowed as a limited use, it must satisfy the following standards:

- a. Antennas are limited to the following types and dimensions:
 - i. an antenna that satisfies one of the Antenna Dimensions standards in Section 59.3.5.2.C.1.b; and
 - ii. satellite, radar, or microwave dish antennas with a maximum diameter of 8 feet. If the building includes a media broadcast studio, a dish may have a maximum diameter of 22 feet.
- b. Signs or illumination on the antennas or support structure are prohibited unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.
- c. Associated equipment must be located in an unmanned building, equipment cabinet, or equipment room in an existing building. An equipment building must satisfy the following standards:
 - i. An equipment building must satisfy the following standards:
 - (a) It is a maximum of 560 square feet in area; however, a single equipment building in excess of 560 square feet, located at ground level, may be used if:
 - (1) the overall maximum square footage is 1,500 square feet and the maximum height is 12 feet;
 - (2) the building is used for more than one telecommunications provider operating from the same monopole or tower; and
 - (3) the building is reviewed by the Telecommunications Transmission Facility Coordinating Group under Chapter 2 (Section 2-58E).
 - (b) It is a maximum of 14 feet in height, including the support structure for the equipment building.
 - (c) If the equipment building is greater than 4 feet in height and is in a Residential zone, or the nearest abutting property is in a Residential zone, the building must be faced with brick or other material compatible with the surrounding neighborhood on all sides.
 - ii. If an equipment cabinet and any supporting platform are greater than 4 feet in height, and service an Antenna on Existing Structure that is not a utility pole, streetlight pole, or site plan approved parking lot light pole, and if the Existing Structure is in a Residential zone, or the nearest abutting property to the Existing Structure is in a Residential zone, then the equipment must be surrounded by landscaping of at least 3 feet in height.
 - iii. If an equipment cabinet services an Antenna on Existing Structure and the Existing Structure is a utility pole, streetlight pole, or site plan approved parking lot light pole, the equipment cabinet:
 - (a) must not exceed a maximum volume of 12 cubic feet; and
 - (b) must be the same color or pattern as the existing structure, unless it is a stealth design approved by the Department of Transportation.
- d. Except under Section 3.5.14.C.2.e, when mounted on a rooftop or structure located outside of a right-of-way, the antenna must meet the following standards:
 - i. An antenna is prohibited:
 - (a) on any detached house, duplex, or townhouse building type or an accessory structure associated with either building type; and
 - (b) in any scenic setback indicated in a master plan.
 - ii. An antenna and a related unmanned equipment building or cabinet may be installed on a rooftop, if a building is a minimum height of:
 - (a) 50 feet in any Residential Detached, Rural Residential, or Planned Unit Development zone, and must be mounted in an antenna enclosure the same color or design as the building; or
 - (b) 20 feet in any Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone, and must be mounted in an antenna enclosure the same color or design as the building.
 - iii. An antenna may be mounted on the facade of a building at a minimum height of:
 - (a) 50 feet in a Residential Detached zone; or
 - (b) 30 feet in any Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zone.
 - iv. The antenna must not be attached to the support structure for:
 - (a) an antenna that is part of an Amateur Radio Facility licensed by the Federal Communications Commission; or
 - (b) an antenna to receive television imaging in the home.
- e. An antenna classified as Standard A under Section 3.5.2.C.1.b may be installed on any existing structure located in the right-of-way in any zone where an antenna on an existing structure is allowed, if:
 - i. the antenna is in an enclosure and the enclosure is the same color or pattern as the existing structure;
 - ii. the antenna and the antenna enclosure is installed at a minimum height of 15 feet; and
 - iii. the Antenna on Existing Structure is at least 30 feet from a building intended for human occupation in a Rural Residential, Residential, or Planned Unit Development zone, and at least 10 feet from any structure in any Commercial/Residential, Employment, or Industrial zone.
- f. Antennas installed under Section 3.5.14.C.2.e.iii. must meet the following use standards:
 - i. Whenever it is legally and technically feasible, an Antenna on Existing Structure located 90 feet or less from a building intended for human occupation in a Rural Residential, Residential, or Planned Unit Development zone should be located closest to intersections, closest to property lines between dwellings, along the non-front-facing side of residential properties, or along abutting properties used for a non-residential purpose. In

addition, the Antenna on Existing Structure must be at least 5 feet from the area between two parallel lines extending from the sides of a residential front door. If the applicant cannot meet the foregoing standards, the applicant must include in their application an affidavit proving that either permission from the pole owner cannot be obtained or service cannot be provided using a pole at an alternate location.

- ii. An Antenna on Existing Structure must be located at least 150 feet from the nearest antenna occupied or controlled by the same carrier.
- iii. An Antenna on Existing Structure must be removed within 30 days of deactivation.
- iv. The owner of the Antenna on Existing Structure must maintain the Antenna on Existing Structure in a safe condition. The owner must remove graffiti and repair damage to the facility.

D. Commercial Kitchen

1. Defined

Commercial Kitchen means a part of a building that is accessory to Religious Assembly (Section 3.4.10) or Public Use (Except Utilities) (Section 3.4.9) and satisfies the requirements of Chapter 15 for the preparation of food that could be sold to the public.

2. Use Standards

Where a Commercial Kitchen is allowed as a limited use, it must satisfy the following standards:

- a. The Commercial Kitchen must occupy less than 5% of the floor area of all buildings on the tract of land under common ownership on which it is located.
- b. The Commercial Kitchen cannot be used as part of an on-site Eating and Drinking establishment (Section 3.5.3).
- c. A minimum of one parking space, on-site or off-site, per kitchen user is required.
- d. The Commercial Kitchen can be used for the preparation of food for public consumption off-site only between the hours of 6:00 a.m. to 9:00 p.m. weekdays and 8:00 a.m. to 9:00 p.m. weekends.

E. Drive-Thru

1. Defined

Drive-Thru means a facility where the customer is served while sitting in a vehicle. Drive-Thru includes drive-thru restaurants, banks, and pharmacies, but does not include Filling Station (see Section 3.5.13.C, Filling Station).

2. Use Standards

- a. Where a Drive-Thru is allowed as a limited use, it must satisfy the following standards:
 - i. A Drive-Thru, including the queuing area, must be located a minimum of 100 feet from any property that is vacant or improved with a residential use in the Agricultural, Rural Residential, or Residential Detached zones.
 - ii. For a Restaurant with a Drive-Thru, access to the site from a street with a residential classification is prohibited.
 - iii. A drive-thru service window, drive aisle, or queuing area located between the street and the front main wall of the main building is prohibited.
 - iv. A drive-thru service window, drive aisle, or stacking area may be located between the street and the side wall of the main building on a corner lot if permanently screened from any street by a minimum 3 foot high wall or fence.
 - v. Site plan approval is required under Section 7.3.4.
 - vi. A conditional use application for a Drive-Thru may be filed with the Hearing Examiner if the limited use standards under Section 3.5.14.E.2.a.i through Section 3.5.14.E.2.a.iv cannot be met.
- b. Where a Drive-Thru is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity.
 - ii. The use of the proposed location will not preempt frontage on any highway or public road in a way that reduces the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
 - iii. Product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections, or at entrances and exits to and from the Drive-Thru are prohibited.
 - iv. When a Drive-Thru occupies a corner lot, the ingress or egress driveways must be located a minimum of 20 feet from the intersection of the rights-of-way, and such driveways must not exceed 25 feet in width. In areas where no master plan of highways has been adopted, the street line must be considered to be a minimum of 60 feet from the centerline of any abutting street or highway.

F. Helistop

1. Defined

Helistop means a designated area, either at ground level or elevated on a structure, used for the landing and takeoff of helicopters. Helistop includes a small fuel tank for a ground level facility and minor support facilities such as a small sheltered waiting or loading area, a small administrative office, and one permanent tie-down space. Helistop does not include major support facilities (see Section 3.6.6.B, Helipad, Heliport).

2. Use Standards

Where a Helistop is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

G. Lawn Maintenance Service

1. Defined

Lawn Maintenance Service means a home-based business of cutting grass, raking leaves, snow removal, and other activities associated with maintaining a yard. Lawn Maintenance Service does not include Landscape Contractor (see Section 3.5.5, Landscape Contractor).

2. Use Standards

Where a Lawn Maintenance Service is allowed as a limited use, it must satisfy the following standards:

- a. The Lawn Maintenance Service must satisfy the use standards for all Home Occupations under Section 3.3.3.H.2, the use standards for a Home Occupation (Low Impact) under Section 3.3.3.H.4.b, and the registration requirements under Section 3.3.3.H.4.c.
- b. The loading and unloading of tools and equipment from not more than 2 single axle trailers or trucks is allowed.
- c. Equipment or facilities are limited to lawn maintenance service equipment.
- d. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

H. Live/Work Unit

Defined

Live/Work Unit means a building, or a space within a building, that combines space for a commercial or manufacturing activity that is allowed in the zone with a dwelling unit for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household.

(Legislative History: Ord. No. 17-49, § 1; Ord. No. 18-08, §5; Ord. No. 18-34, §2; Ord. No. 18-44, §2; Ord. No. 19-41, § 1.)

Section 3.5.15. Temporary Commercial Uses

A. Construction Administration or Sales Office

1. Defined

Construction Administration or Sales Office means a temporary office for construction administration or real estate sales.

2. Use Standards

Where a Construction Administration or Sales Office is allowed as a limited use, it must satisfy the following standards:

- a. A temporary use permit and an use-and-occupancy permit are required.
- b. The use is limited to the construction, development, or sale of buildings or structures within the same site or subdivision.
- c. The use is allowed only for the duration of construction and sale of a project.
- d. A temporary outdoor storage yard for construction equipment or building materials and supplies that is located within 300 feet of any occupied residentially developed property and is to be maintained in the same general location for a minimum of one year must be effectively screened from the residential development by natural features or a solid fence with a maximum height of 6.5 feet.
- e. A Construction Administration or Sales Office, including any associated trailer, building, or portable toilet, that is located within 100 feet of an occupied residentially developed property:
 - i. must be landscaped and maintained; and
 - ii. may be approved for a maximum of one year. Extensions may be approved by DPS for additional one year periods. If a public hearing is held on the extension, the applicant must demonstrate to DPS that a more appropriate location for such use, farther removed from the residential development, does not exist on the site. This finding will not be required if the extension requested does not exceed 6 months.
- f. Any Construction Administration or Sales Office, including an outside storage area, located a minimum of 100 feet from an occupied residentially developed property may be approved for a maximum of 3 years. Extensions may be approved by DPS for additional 2 year periods.
- g. The procedure to request an extension of a temporary use-and- occupancy permit for a Construction Administration or Sales Office is as follows:
 - i. The request must be filed with DPS.
 - ii. The applicant must demonstrate compliance with the landscaping and screening requirements of the original approval.
 - iii. If the use moves more than 200 feet from the originally approved location, then the applicant must apply for a new temporary use-and-occupancy permit.
 - iv. The applicant must provide notice by certified mail to all owners of property that adjoin such use stating that an extension has been requested and that the owners, if they wish to comment, must submit their comments concerning the extension to DPS within 20 days.
 - v. If any abutting property owner opposes continuance of the use, DPS must hold a public hearing before making a decision on the requested extension. A notice of such public hearing must be sent to all abutting property owners.
 - vi. DPS must decide on the extension within 5 days of the closing of the hearing record. In approving an extension, DPS may add additional reasonable conditions to the use-and-occupancy permit. DPS may deny an extension, with reasons for the denial stated in writing.

B. Special Event Parking

1. Defined

Special Event Parking means off-street parking of motor vehicles in connection with a sporting or cultural event.

2. Use Standards

Where Special Event Parking is allowed as a limited use, it must satisfy the following standards:

- a. The use is limited to one event a year for a maximum of 10 days.
- b. A written permit authorizing such parking must be obtained from DPS a minimum of 10 days before the event.

- c. DPS is authorized to impose a reasonable fee and other requirements on the permittee to assure that the parking is safe and free from hazard, and the community interest and welfare are protected.

C. Transitory Use

1. Defined

Transitory Use means a use on private property or the public right-of-way conducted from a vehicle or from a movable structure that remains in the same location for less than 24 hours. Transitory Use includes a food service truck.

2. Use Standards

Where a Transitory Use is allowed as a limited use, it must satisfy the following standards:

- a. A Transitory Use must be registered under Chapter 47.
- b. A Transitory Use may be located in the public right-of-way where it satisfies Chapter 47.
- c. A Transitory Use may be allowed on private property only if it would be allowed as a permanent use in the applicable zone under Section 3.1.6.
- d. A Transitory Use is prohibited on any portion of the open space required by the zone in which the property is located.

(Legislative History: Ord. No. 18-14, §2.)

Division 3.6. Industrial Uses

Section 3.6.1. Animal Research Facility

Defined

Animal Research Facility means any structure or land for the use of animals in scientific experimentation.

Section 3.6.2. Contractor Storage Yard

A. Defined

Contractor Storage Yard means a parcel or lot for storing construction equipment or building materials and supplies.

B. Use Standards

Where a Contractor Storage Yard is allowed as a limited use, and the subject parcel or lot abuts or confronts a property zoned Residential Detached that is vacant or improved with a residential use, it must satisfy the following standards:

1. The minimum site is 20,000 square feet.
2. Access to the site from a street with a residential classification is prohibited.

Section 3.6.3. Dry Cleaning Facility

A. Dry Cleaning Facility (Up to 3,000 SF)

1. Defined

Dry Cleaning Facility (Up to 3,000 SF) means a building or part of a building up to 3,000 square feet of gross floor area used for the mechanical cleaning of garments, articles, or goods of fabric for retail customers. Dry Cleaning Facility (Up to 3,000 SF) does not include a laundromat or dry cleaning and laundry pick-up station, (see Section 3.5.11.B, Retail/Service Establishment).

2. Use Standards

Where a Dry Cleaning Facility (Up to 3,000 SF) is allowed as a limited use, work for other similar dry cleaning or laundering establishments is prohibited.

B. Dry Cleaning Facility (Over 3,000 SF)

Defined

Dry Cleaning Facility (Over 3,000 SF) means a building or part of a building over 3,000 square feet of gross floor area used for the mechanical cleaning of garments, articles, or goods of fabric. Dry Cleaning Facility (Over 3,000 SF) includes a linen, diaper, or uniform laundering service and may perform work on the premises for other dry cleaning and laundry services and serve retail customers.

Section 3.6.4. Manufacturing and Production

A. Artisan Manufacturing and Production

Defined

Artisan Manufacturing and Production means a structure used for the manufacture and production of commercial goods by a manual worker or craftsman, such as jewelry, metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food products. Artisan Manufacturing and Production does not include any activity that causes noise, odor, or vibration to be detectable on a neighboring property.

B. Heavy Manufacturing and Production

Defined

Heavy Manufacturing and Production means a building used for the processing, manufacturing, or compounding of materials or products predominately from raw materials, which may include the storage of large volumes of highly flammable, toxic matter or explosives, and may involve outdoor operations as part of their manufacturing process. Heavy manufacturing processes have greater than average impacts on the environment or significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards. Heavy Manufacturing and Production does not include arsenals; blast furnaces; boiler works; distillation of bones; dumps; fat rendering; forge plants; incinerators, except when operated or licensed by a duly authorized public agency; ore reduction; packing houses, including meat canning or curing houses; petroleum refining, or storage in more than tank car lots; rolling mills; smelting; tanning, curing or dyeing of leather, rawhides or skins, or storage of skins; and wool pulling or scouring. Heavy Manufacturing and Production also does not include acetylene; ammonia, bleaching powder, chlorine; asphalt; celluloid or

pyroxylin (or treatment of celluloid or pyroxylin); disinfectants; emery cloth or sandpaper; explosives, fireworks or gunpowder; fertilizers; gas for illumination or heating; glue, size, or gelatin; insecticides; lampblack; leather goods; linoleum; matches; mortar, lime, plaster, cement, gypsum; oil cloth or oiled products; paint, oil, shellac, turpentine or varnish employing a boiling or rendering process; potash; rubber or products made from rubber; soap; shoeblacking or polish; soda or soda compound; acids or other corrosive or offensive substances; tar or tar roofing or water proofing or other tar products or distillation of tar; and yeast, except as part of medical and biotechnical research and development.

C. Light Manufacturing and Production

1. Defined

Light Manufacturing and Production means a building used for the manufacturing of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products and parts, and incidental storage, sales, and distribution, where all manufacturing processes and noise, odor from processes other than food or beverage production, smoke, heat, glare and vibration resulting from the manufacturing processes are contained entirely within a building.

2. Use Standards

Where Light Manufacturing and Production is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.

- a. In CRN, CRT, and CR zones, the only light manufacturing uses allowed are:
 - i. brewing alcoholic beverages up to 22,500 barrels a year; and
 - ii. distilling alcoholic beverages up to 50,000 gallons per year.
- b. In the EOF zone, the only use limitations are:
 - i. brewing alcoholic beverages up to 60,000 barrels a year; and
 - ii. distilling alcoholic beverages up to 100,000 gallons per year.

D. Medical/Scientific Manufacturing and Production

1. Defined

Medical/Scientific Manufacturing and Production means a building used for the manufacturing, compounding, processing, assembly, or packaging, including incidental storage, sales, and distribution, of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, products resulting from biotechnical and biogenetic research and medical, scientific, or technical instruments, devices, and equipment.

2. Use Standards

Where Medical/Scientific Manufacturing and Production is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.

(Legislative History: Ord. No. 18-35, §2.)

Section 3.6.5. Mining, Excavation

A. Defined

Mining, Excavation means a use that extracts rocks, minerals, and other natural resources from the ground. Mining, Excavation only includes borrow pit, rock extraction, and gravel mining.

B. Use Standards

1. Where Mining, Excavation is allowed as a limited use, it must satisfy the following standards:
 - a. It must be recommended as appropriate in the applicable master plan, be in existence before 1958, and have a maximum of 4,000 square feet of enclosed structures in the aggregate; and
 - b. It includes the extraction, processing, storage and sale of mineral resources and products (which may include incidental sales of mineral resources not extracted on the premises), and accessory uses such as a storage yard, a facility for the maintenance and repair of equipment, a loading facility, crushing, mixing, washing and screening of stone quarried on-site, stone works for the cutting and polishing of dimensional stone, and sale of equipment and building supplies associated with the installation of mineral products.
 - c. Mining, Excavation that is recommended as appropriate in the applicable master plan, is in existence before 1958, and has a minimum of 4,000 square feet up to a maximum of 7,500 square feet, in the aggregate of enclosed structures requires conditional use approval under Section 7.3.1. The conditional use standards in Section 3.6.5.B.2 do not apply.
2. Where Mining, Excavation is allowed as a conditional use, it may be allowed by the Hearing Examiner under Section 7.3.1, Conditional Use, if the use is recommended for the site by the applicable master plan, and the following standards:
 - a. The lot area has been determined by the sum of the area to be extracted plus that area required to meet the minimum setback standards, or the area required to meet the performance standards of the zone, whichever is greater; however, the minimum lot area is 10 acres.
 - b. A maximum of 10% of the lot is covered by buildings, including accessory buildings.
 - c. All quarries, pits, open mines, processing plants, screening, sorting, storage, stoneworks, stone cutting, stone polishing, loading, batching, mixing, maintenance, service and repair equipment, facilities and structures will be set back from property lines an amount sufficient to achieve the performance standards established by the Hearing Examiner.
 - d. Access to a public road must be available.
 - e. The maximum height of a building or structure is 90 feet above the natural grade of the portion of the site upon which the building or structure is situated, but facilities for rail loading abutting the right-of-way of a railroad are permitted to extend to a height of 25 feet above the grade of the railroad at the property line abutting the railroad right-of-way.
 - f. A minimum of 25% of the lot area designated for mining and excavation will be maintained in open space, including required buffer areas, landscaped or planted berms, forested areas, or areas devoted to agriculture.

- g. Access roads, security patrol roads, railroad sidings, identifications, directional and safety warning signs, security fences and acoustical or visual screens, berms, or walls are permitted within the setback area.
- h. The use is valid for a maximum of 3 years, and the use may be renewed by the Hearing Examiner.
- i. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

(Legislative History: Ord. No. 18-08, § 6.)

Section 3.6.6. Transportation

A. Bus, Rail Terminal/Station

1. Defined

Bus, Rail Terminal/Station means any structure and land used for bus and train arrivals and departures. Bus, Rail Terminal/Station does not include bus or train maintenance (see Section 3.5.13.D, Repair (Commercial Vehicle)).

2. Use Standards

Where a Bus, Rail Terminal/Station is allowed as a limited use, bus or train storage is prohibited.

B. Helipad, Heliport

1. Defined

Helipad, Heliport means a designated area, either at ground level or elevated on a structure, that is used on a regular basis for the landing and takeoff of rotorcraft. Helipad, Heliport includes support facilities such as refueling services, maintenance and cargo loading areas, tie-downs and hangars, administration offices, and other appropriate terminal facilities.

2. Use Standards

Where a Helipad, Heliport is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. All applications for Helipad, Heliport must provide noise analysis sufficient to make a finding of noise compatibility around the facility (the primary impact area) and along and under the principal access routes (the secondary impact area). The primary impact area includes the rotorcraft facility and the area within a 4,000 foot radius from the helipad. The secondary impact area includes all areas in the County along and under the principal access routes to the rotorcraft facility excluding the primary impact area.
- b. The Helipad, Heliport noise analysis must include a description of detailed operational procedures that would minimize noise levels affecting sensitive land uses in both the primary and secondary impact areas ("fly neighborly" procedures). Based on use of these procedures and worst-day noise scenario with peak usage of the facility, projected rotorcraft noise level (in terms of day-night average sound level or DNL) must be developed using models approved by the Federal Aviation Administration (see FAA Advisory Circular 150/5020-2). This worst-day operational scenario becomes the maximum allowable limit for the type, weight, and noise characteristics of the rotorcraft proposed to use the facility; proposed number of operations; and approximate time of day that landings and departures could occur.
- c. Rotorcraft operations are noise compatible if ambient DNL noise levels at noise sensitive areas with rotorcraft operations (post-rotorcraft ambient noise levels) exceed pre-rotorcraft ambient DNL levels by one decibel or less. If rotorcraft operations already exist in the vicinity, the cumulative impact of all operations must be calculated to determine compliance.
- d. Instead of monitoring ambient conditions, the following noise-compatible land use planning goals for various land use types and densities must be used, as shown in the following table:

i. Maximum Compatible Sound Levels

Approximate Density Residential	Day/Night Average Sound Level (DNL) in A-Weighted Decibels
Less than or equal to 1 unit per acre	55 dBA
2 units to 15 units per acre	60 dBA
Multi-unit and high rise	65 dBA

- ii. Based on this table and the compatibility standard of allowing only a one-decibel increase in the ambient levels, the following table designates maximum rotorcraft sound levels:

Maximum Rotorcraft Sound Levels

Approximate Density Residential	Day/Night Average Sound Level (DNL) in A-Weighted Decibels
Less than or equal to 1 unit per acre	49 dBA
2 units to 15 units per acre	54 dBA
Multi-unit and high rise	59 dBA

- iii. Where ambient noise levels significantly differ from those in the Maximum Compatible Sound Levels table, measurements or modeling may be performed to establish compatibility standards appropriate to the ambient environment. Office, commercial, and industrial land uses will not be reviewed for noise impacts with the following 2 exceptions: (1) situations where it appears likely that workers will be subjected to noise levels in excess of LEQ1 = 75 dBA for an 8-hour period; (2) in CBD or Transit Station areas, where amenity spaces are provided, if it appears that noise impacts may be of such magnitude as to significantly reduce the usefulness or inhibit the proper function of these spaces for their intended purpose. In addition to the cumulative noise standards, the Hearing Examiner may designate additional conditions for use in the public interest which may include, but not be limited to, restricting the number of rotorcraft operations, restricting the hours of operation of the facility, restricting operations of high noise generating rotorcraft during noise-sensitive hours, or any combinations of these restrictions.

- e. With the exception of operations on the helipad, all on-ground operations must satisfy the standards of Chapter 31B. In particular, heliport maintenance operations must satisfy these standards.

f. All applications for a Helipad/Heliport must also contain the following information:

- i. An aerial photograph showing the primary impact area, as defined in Section 3.6.6.B.2.a, at a scale no less than one inch equals 400 feet showing the location of the proposed Helipad/Heliport; the approach and departure routes and altitudes within the primary impact area; the location of all residences, schools, churches, hospitals, and other areas used for the open assembly of people, and other noise sensitive uses that exist, have been approved for development, or are master planned within the primary impact area.
 - ii. A map showing the intended flight paths and altitudes within the secondary impact area, as defined in Section 3.6.6.B.2.a. This map must indicate the proposed routes and altitude restrictions, if any, found to be acceptable by the Federal Aviation Administration.
 - iii. Information concerning the type of rotorcraft facility proposed (helipad/heliport); the nature of the use (public use/private use); type, weight and noise characteristics of rotorcraft that would use the facility; the proposed number of operations and approximate time of day that landings and departures would occur for each type of rotorcraft; and finally, the facility's proposed operating hours.
 - iv. A plan must be submitted for the Hearing Examiner's approval that complies with all the heliport design guideline recommendations in the Federal Aviation Administration's Heliport Design Guide, Advisory Circular No. 150/5390-1B, dated August 22, 1977, as amended. These guidelines are the minimum standards for the design and approval of a Helipad/Heliport plan. Exemptions to specific standards contained in the heliport design guide may be approved by the Hearing Examiner, but only after receiving a recommendation for approval of the requested exemption from the Federal Aviation Administration.
 - v. For elevated facilities, an architectural drawing must be submitted which has been certified by a structural engineer licensed by the State of Maryland as demonstration that the structure will support the static and dynamic loads of rotorcraft proposed to use the facility, and that the fire safety regulations, as established in NFPA Publication #418, current edition, or any other regulations in effect at the time of application, have been satisfied.
 - vi. A copy of the "Notice of Landing Area Proposal," a copy of the Federal Aviation Administration's response to the Notice of Landing Area Proposal, and a copy of the Air Space Determination from the Federal Aviation Administration must be submitted.
 - vii. In addition to the above requirements, the Hearing Examiner may require any additional information and analyses that may be relevant as the evidence of record and the public interest require.
- g. Permission for a private use Helipad, Heliport may be granted by the Hearing Examiner for a 5-year period or such shorter period as the Hearing Examiner may specify in granting the conditional use. The conditional use may be renewed by the Hearing Examiner for additional periods, a maximum of 5 years each, if the same findings required for the initial approval by the Hearing Examiner can still be made.
- h. Operators of approved Helipad, Heliport must maintain an accurate log of all rotorcraft operations, specifying each operation that occurs including the type of rotorcraft and the date and time of the operation. This log must be available for inspection by DPS as part of any inspection of operations for conditional uses. Failure to maintain the log or failure to make the log available to DPS as part of an inspection is a violation of the conditional use approval.

C. Railroad Tracks

Defined

Railroad Tracks means fixed guideways for the movement of trains.

D. Taxi/Limo Facility

1. Defined

Taxi/Limo Facility means any structure or land for the dispatch or storage of taxis, limousines, or other vehicles for hire.

2. Use Standards

Where a Taxi/Limo Facility is allowed as a limited use, vehicle storage is prohibited.

Section 3.6.7. Utilities

A. Distribution Line (Above Ground)

1. Defined

Distribution Line (Above Ground) means an above ground electric line (carrying under 69,000 volts), cable line, or telephone line.

2. Use Standards

Where a Distribution Line (Above Ground) is allowed as a limited use, only electric distribution lines are allowed.

B. Distribution Line (Below Ground)

Defined

Distribution Line (Below Ground) means an underground electric line, cable line, or telephone line.

C. Pipeline (Above Ground)

1. Defined

Pipeline (Above Ground) means an above ground conduit for the distribution of liquids or gas.

2. Use Standards

Where a Pipeline (Above Ground) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The proposed pipeline is necessary for public convenience and service.
- b. The proposed pipeline will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

D. Pipeline (Below Ground)

Defined

Pipeline (Below Ground) means an underground conduit for the distribution of liquids or gas.

E. Public Utility Structure

1. Defined

Public Utility Structure means a utility structure other than transmission lines or pipelines. Public Utility Structure includes structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices for supplying electric service or other public utilities.

2. Use Standards

- a. Where a Public Utility Structure is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- b. Where a Public Utility Structure is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. The proposed structure at the location selected is necessary for public convenience and service.
 - ii. The proposed structure at the location selected will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.
 - iii. A Public Utility Structure allowed in any Rural Residential or Residential zone, must, whenever practicable, have the exterior appearance of a residential building and must have suitable landscaping, screen planting and fencing, wherever deemed necessary by the Hearing Examiner.
 - iv. The Hearing Examiner may waive the height limits of the applicable zone where, in the opinion of the Hearing Examiner, adjacent residential uses will not be adversely affected by the increased height.
 - v. An applicant for a Public Utility Structure may file a conditional use application if the applicant states in writing under oath that a bona fide effort has been made to obtain a contractual interest in the subject property for a valid consideration without success, and that there is an intent to continue negotiations to obtain the required interest or in the alternative to file condemnation proceedings should the conditional use be approved.

Section 3.6.8. Warehouse

A. Freight Movement

Defined

Freight Movement means any structure or land involved in the movement of goods or equipment, including temporary storage, for delivery to other facilities or the final consumer. Freight Movement does not include on-site sales activity.

B. Hazardous Material Storage

1. Defined

Hazardous Material Storage means the storage of waste that the US Environmental Protection Agency (EPA) has determined are hazardous. Hazardous Material Storage includes materials on the F-list (wastes from common manufacturing processes), K-list (wastes from specific industries), and P- and U-lists (wastes from commercial chemical products) as well as characteristic wastes that are not included on any of the previous listings, but that generally exhibit ignitability, corrosivity, reactivity, or toxicity.

2. Use Standards

Where Hazardous Material Storage is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

C. Mineral Storage

1. Defined

Mineral Storage means any structure and land for the off-loading, transfer, or storage of sand, gravel, or rocks.

2. Use Standards

Where Mineral Storage is allowed as a limited use, it must be set back at least 750 feet from the nearest property in a Residential zone.

D. Self-Storage

1. Defined

Self-Storage means a structure providing separate storage areas for personal or business use designed to allow private access by the tenant.

2. Use Standards

- a. Where Self-Storage is allowed as a limited use, it must satisfy the following standards:
 - i. In the GR zone, site plan approval is required under Section 7.3.4.
 - ii. In the CR zone, Self-Storage is allowed under the standard method of development under Section 4.5.3 and the following standards:
 - (a) in a basement or cellar of a building used for other purposes;
 - (b) with the provision of on-site loading and unloading facilities;
 - (c) with doors for individual storage units in the interior of the building; and
 - (d) if signage is limited to a wall sign under Section 6.7.9.A.2 and the maximum area of the sign is 40 square feet.
 - iii. In the CR zone, Self-Storage is allowed with site plan approval under Section 7.3.4 and the following standards:
 - (a) the Self-Storage use is located above the ground-floor level of an existing building;

- (b) the existing building is an office building that has had no tenants in 90% of the building for at least 2 consecutive years immediately preceding the application date, as evidenced by a third-party vendor or documentation provided by the applicant;
 - (c) the ground floor contains, with frontage abutting a public sidewalk or other public pedestrian route, either a Charitable, Philanthropic Institution use under Section 3.4.2 or a Cultural Institution use under Section 3.4.3;
 - (d) any structural improvements to the existing building will not cause practical difficulty or undue hardship for conversion to a future commercial or residential use and must maintain any façade windows;
 - (e) the application includes on-site loading and unloading facilities and loading facilities are not on any of the Boulevard street classifications under Chapter 49;
 - (f) the application includes individual storage units in the interior of the building; and
 - (g) signage is limited to a wall sign under Section 6.7.9.A.2 and the maximum area of the sign is 40 square feet.
- iv. For Self-Storage approved with a ground floor Charitable, Philanthropic Institution or Cultural Institution use, the applicant must obtain a Use and Occupancy permit from DPS for the Charitable, Philanthropic Institution or Cultural Institution use within two years of the date of the Planning Board's resolution or site plan approval will be revoked.

b. Where Self-Storage is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

E. Storage Facility

1. Defined

Storage Facility means any structure and land for the short- or long-term storage of goods or equipment, not including Self-Storage (See Section 3.6.8.D, Self-Storage).

2. Use Standards

Where a Storage Facility is allowed as a limited use, it must satisfy the following standards:

- a. Outdoor storage is prohibited.
- b. In the CRT and CR zones, only a facility up to 10,000 square feet of gross floor area is allowed.
- c. In the EOF zone, only a facility up to 10,000 square feet of gross floor area is allowed; however, if the facility was legally existing on October 29, 2014, the following are allowed:
 - i. a facility greater than 10,000 square feet of gross floor area; and
 - ii. outdoor storage.

(Legislative History: Ord. No. 20-16, § 1.)

Section 3.6.9. Waste-Related

A. Landfill, Incinerator, or Transfer Station

1. Defined

Landfill means a facility that collects and disposes of waste under State of Maryland requirements for landfills. A landfill includes land clearing debris landfills, rubble landfills, and industrial waste landfills. Incinerator means a facility intended to reduce waste to ash through combustion and may produce energy or heat for re-use. An incinerator includes medical incinerator. Transfer station means a facility that receives solid or liquid wastes from others for transfer to another location under State of Maryland requirements for transfer stations. Landfill, Incinerator, or Transfer Station is included in the Comprehensive Solid Waste Management Plan for Montgomery County.

2. Use Standards

Where a Landfill, Incinerator, or Transfer Station is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The proposed use must meet all applicable requirements and conditions for State of Maryland permits.
- b. The applicant must provide a detailed plan showing the proposed truck haul route to the nearest major highway and traffic engineering studies and analyses demonstrating the effects of the proposed conditional use on present and projected levels of service, adequacy of the present and planned road system, road safety conditions, bridge capacity, and other factors related to traffic flow and safety. The detailed plan submitted by the applicant must include:
 - i. a map of the hauling route indicating the classification of all roads and the width of the respective rights-of-way, as well as the number of lanes as built.
 - ii. the load limits of all bridges which the hauling route will cross,
 - iii. the segments of the road which are "closed" by curb and gutters, and "open" to roadside swales or ditches,
 - iv. the hours and days when the property will accept vehicles, and
 - v. the steps which the applicant will take to maintain the hauling route free of debris from vehicles accessing or leaving applicant's facility and control the number of vehicles accessing and leaving the site on a daily, weekly, monthly, and extraordinary basis, and
 - vi. designation of on-site queuing spaces sufficient to accommodate the anticipated hauling vehicles without causing the vehicles to queue into the public right-of-way. The number of queuing spaces must be at least one-half of the number of trucks expected during the peak hours of operation.
- c. The applicant must have and adhere to an emergency notification and mitigation plan, acceptable to DPS, for instances when the presence of toxic, hazardous, or special medical wastes is discovered or suspected.
- d. To protect the public health, safety and welfare, the applicant must provide on-site and off-site monitoring of air pollution, noise, ground water, and surface waters in a plan acceptable to DPS. The applicant must describe how the transfer station operations will conform to the water quality and quantity requirements of Chapter 19, without any waiver.

- e. The site must conform to the National Fire Protection Association (NFPA) Standard 46, "Recommended Safe Practice for Storage of Forest Products". The standards are mandatory and not recommendations.
- f. Any transfer of solid waste or sorting of recyclable materials must occur only in a wholly enclosed building.
- g. The outdoor storage of solid waste or recyclable materials must be in leakproof, fly-and- rodent proof containers.
- h. Impervious surfaces must be provided for all areas where the handling, sorting, storage, or transporting of solid waste or recyclable materials occurs.
- i. Any water that comes into contact with solid waste must be discharged to the sanitary sewer system that satisfies an industrial discharge permit.
- j. Water runoff must be discharged only into the sanitary sewer system.
- k. A solid waste transfer station operation must not be located on any part of a floodplain or wetland, or within 300 feet of a stream.
- l. Each site must be accessible directly from a roadway consisting of sufficient lanes to provide separate turning lanes and through lanes for large trucks to assure safe ingress and egress and not impede through traffic.
- m. There must be at least a 200 foot buffer between the proposed sorting and storage operations and any lot line.

B. Recycling Collection and Processing

1. Defined

Recycling Collection and Processing means any structure or land used for the collection and recovery of paper, metals, plastic, glass, lumber, presorted construction or demolition debris, or other marketable scrap where the materials are separated, collected, processed, or marketed in the form of raw materials or products and result in less than 10% non-marketable waste by volume and inventory stored on-site must be turned over at least once every 3 months. Recycling Collection and Processing includes an automobile recycling facility, but does not include a transfer station (See Section 3.6.9.A, Landfill, Incinerator, or Transfer Station).

2. Use Standard

Where Recycling Collection and Processing is allowed as a limited use, recycling of construction and demolition debris is prohibited unless the use was lawfully existing on October 29, 2014. The recycling of automobiles is also prohibited.

Division 3.7. Miscellaneous Uses

Section 3.7.1. Noncommercial Kennel

A. Defined

Noncommercial Kennel means any County-licensed establishment used for the keeping, breeding, or care of dogs, cats, or other domestic animals belonging to the site's owner and kept for purposes of show, hunting, breeding, or as pets. Noncommercial Kennel does not include an Equestrian Facility (see Section 3.2.4, Equestrian Facility).

B. Use Standards

Where a Noncommercial Kennel is allowed as a limited use, construction or use of accessory buildings, enclosures, or runs for these dogs is prohibited.

Section 3.7.2. Solar Collection System

A. Defined

Solar Collection System means an arrangement of panels or other solar energy devices that provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. A Solar Collection System includes freestanding or mounted devices. Solar Collection Systems are facilities that comply with the requirements of the State's net metering program under Maryland Code §7-306, COMAR 20.50.10, and COMAR 20.62, including Community Solar Energy Generating Systems, Aggregate Net Energy Metering Systems, and projects limited to a percentage of on-site energy use. A Solar Collection System larger than 2 megawatts (AC) is prohibited in the Agricultural Reserve Zone.

B. Use Standards

1. Where a Solar Collection System is allowed as a limited use, it must satisfy the following standards:
 - a. In the Agricultural Reserve zone, a Solar Collection System is allowed where the system produces up to 200% of annual baseline energy use on-site and must satisfy the following requirements:
 - i. Solar panels may encroach into a setback as allowed under Section 4.1.7.B.5.c and may exceed the maximum height as allowed under Section 4.1.7.C.3.b.
 - ii. Written authorization from the local utility company must be provided for a Solar Collection System that will be connected to the utility grid.
 - iii. Removal of trees or landscaping otherwise required or attached as a condition of approval of any plan, application, or permit for the installation or operation of a Solar Collection System is prohibited.
 - b. In Rural Residential, Residential, Commercial/Residential, Employment, and Industrial zones, where a Solar Collection System is allowed as a limited use, it must satisfy the following standards:
 - i. **Systems producing 120% or less of on-site energy use**
 The Solar Collection System may be an accessory use under the following standards:
 - (a) the system produces a maximum of 120% of on-site energy use;
 - (b) solar panels may encroach into a setback as allowed under Section 4.1.7.B.5.C; and
 - (c) the panels may exceed the maximum height allowed under 4.1.7.C.3.b.
 - ii. **Systems Producing more than 120% of on-site energy use**
 The Solar Collection System must satisfy the following standards:
 - (a) Site plan approval is required under Section 7.3.4.

- (b) The site must be a minimum of 3 acres in size.
 - (c) The system may produce a maximum of 2 megawatts (AC).
 - (d) All structures must be:
 - (1) 20 feet in height or less;
 - (2) located at least 50 feet from any property line; and
 - (3) surrounded by a minimum 6-foot-tall fence.
 - (e) If a structure for a Solar Collection System is located in an area visible to an abutting residential use or a road:
 - (1) only solar thermal or photovoltaic panels or shingles may be used;
 - (2) the panels or shingles must use textured glass or an anti-reflective coating; and
 - (3) screening that satisfies Section 59.6.5.3.C.8 (Option A) on the sides of the facility visible from the residential use or road is required.
 - (f) The Solar Collection System must be removed within 12 months of the date when the use is discontinued or abandoned by the system owner or operator, or upon termination of the useful life of the system. The Solar Collection System will be presumed to be discontinued or abandoned if no electricity is generated by the system for a period of 12 continuous months.
2. A Solar Collection System may be allowed as a Conditional Use in the AR zone if it exceeds a facility rated at more than 200% of on-site energy use and is less than 2 megawatts (AC). Where a Solar Collection System is allowed as a conditional use in the AR zone, it may be permitted by the Hearing Examiner under Section 7.3.1. Conditional Use and the following standards:
- a. The Solar Collection System is prohibited:
 - i. on soils classified by the United States Department of Agriculture as either Soil Classification Category I or Category II;
 - ii. in a stream buffer;
 - iii. on wetlands; or
 - iv. on slopes equal to or greater than 15%.
 - b. Scraping topsoil from the site is prohibited.
 - c. Grading and any soil removal are minimized.
 - d. The solar collection system is compliant with the requirements of the State's net metering program under Maryland Code §7-306, COMAR 20.50.10, and COMAR 20.62.
 - e. The area under the solar facility must be actively used for farming or agricultural purposes by satisfying one or more of the following requirements:
 - (i) designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program;
 - (ii) planted, managed, maintained, and used for grazing farm animals; or
 - (iii) planted, managed, maintained, and used for any other agrivoltaic plant material.
 - f. The applicant must provide evidence that the local utility company will allow the Solar Collection System to be connected to the utility grid.
 - g. The applicant must provide evidence that the application was submitted to the Office of Agriculture.
 - h. Removal of trees or landscaping otherwise required or attached as a condition of approval of any plan, application, or permit for the installation or operation of a Solar Collection System is prohibited.
 - i. Any tree in or on a floodplain, stream buffer, steep slope, critical habitat, contiguous forest, or historic site, and any champion tree or other exceptionally large tree is left undisturbed unless a disturbance is allowed under Section 22A-12(b)(1).
 - j. Except for pad areas for transformers and electrical equipment, the use of concrete is prohibited.
 - k. Screening that satisfies Section 59.6.5.3.C.8 (Option A) on the sides of the facility within 200 feet of any neighboring house is required; however, a fence may not be required or prohibited.
 - l. The Hearing Examiner's decision must consider the recommendations of the Office of Agriculture.
 - m. The applicant must include a calculation of the total acreage used for the Solar Collection System, including any required setbacks and all acreage within the fenced or shrubbed area.
 - n. The land area approved for the Conditional Use, in addition to all other Conditional Use approvals for solar facilities in the AR zone, will not exceed 1,800 acres of land.

(Legislative History: Ord. No. 18-43, § 1; Ord. No. 19-14, § 2; Ord. No. 20-01, § 4.)

Editor's note—Ord. No. 19-14, § 3, states: Reporting. The Planning Department must prepare an impact report no later than December 31, 2023, with input from the Office of Agriculture as well as community stakeholders. The report must cover topics such as:

- assessment of different agricultural practices on land beneath panels;
- impact from installations on forests, streams, wetlands;
- impact on the ability of diverse communities to access farming or remain in farming;
- how the availability of solar has measurably impacted agriculture generally, including any measurable impacts on operations of lease or tenant farmers, including land prices;

- any measurable impact on “local food” production;
- any measurable impacts of solar provision on carbon emissions in Montgomery County and the electricity grid generally.

The impact report must recommend to the County Council whether the solar ZTA program should be contained, expanded, or discontinued based directly on any measurable and substantive impacts discovered in the report.

Section 3.7.3. Wildlife, Game Preserve, and Other Conservation Areas

Defined

Wildlife, Game Preserve, and Other Conservation Areas means a public or private area used for raising, protecting, breeding or hunting wildlife within a natural environment. Wildlife, Game Preserve, and Other Conservation Areas includes a regulated shooting ground licensed by the Maryland Wildlife Administration.

Section 3.7.4. Accessory Miscellaneous Uses

A. Accessory Structure

1. Defined

Accessory Structure means a structure subordinate to and located on the same lot as a principal building, the use of which is incidental to the use of the principal building or to the use of the land. An Accessory Structure is not attached by any part of a common wall or common roof to the principal building.

2. Use Standards

Where an Accessory Structure is allowed as a limited use, it must satisfy the following standards:

- In Agricultural and Rural Residential zones, where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building. Buildings for an agricultural use are exempt from this size restriction.
- In Residential Detached zones, where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.
- Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:
 - the pool enclosure, not including the rafters, is translucent or transparent;
 - the pool enclosure has a height of 8 feet or less;
 - the pool enclosure surrounds and covers an inground swimming pool;
 - the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
 - the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

B. Accessory Use

Defined

Accessory Use means a use that is incidental and subordinate to the principal use of a lot or site or the principal building, and located on the same lot or site as the principal use or building. Any permitted or limited use in a zone may be an accessory use to any other use in the same zone; any applicable use standards must be satisfied.

C. Security Pavilion

1. Defined

Security Pavilion means a single-room building designed and arranged for sheltering security personnel and surveillance equipment.

2. Use Standards

Where a Security Pavilion is allowed as a limited use, it must satisfy the following standards:

- A Security Pavilion cannot be designed or used as a dwelling unit and cannot be used for the storage of goods, materials, or automobiles.
- The minimum lot area is 2 acres.
- The maximum size is 196 square feet of total floor area, with maximum linear dimensions of 14 feet per side.
- The maximum height is 12 feet.
- The minimum front setback is 30 feet.
- The minimum side setback is 15 feet.
- The Security Pavilion is placed within 5 feet of the main driveway that provides access to the main dwelling located on the same lot.

(Legislative History: Ord. No. 19-29, § 1; Ord. No. 19-37, § 1.)