

MEMORANDUM

June 19, 2013

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz,  Legislative Attorney
SUBJECT: Worksession 2 – Rural Residential and Residential Zones
Zoning Text Amendment 13-04, Zoning Ordinance - Revised
District Map Amendment G-956

The Committee's directions to staff from the June 14 worksession concerning the AR zone are as follows:

- 1) Amend the land use table to indicate where a use is allowed as a limited use and as a special exception with an "L/C" (Winery, Telecommunications Tower, Equestrian Facility, Country Inn, Mining, Excavation, and Accessory Apartment land uses).
- 2) Redraft the grandfathering provisions for the Committee's consideration.
- 3) Recommend plain English changes by September.
- 4) Amend land use definitions such that the definition in Article 1 only indicates where the definitions and standards can be found.
- 5) Amend the AR intent provision to remove the last sentence concerning residential subdivisions and add that concept to the standards section.
- 6) Amend the land use table to allow an existing educational institution to expand if the expansion is approved as an amendment to its special exception approval.
- 7) Amend the general building language to make clear that buildings used entirely for agriculture in the AR zone are not general buildings.

Staff was asked to bring back to the Committee:

- 1) a review of DPS's recommendation concerning land use discretion;
- 2) revised text to express the thought proposed in the intent provision of the AR zone concerning the arrangement of lots;
- 3) a clarification that the absolute size of non-child lots in the AR zone is not limited;
- 4) an amendment to the definition of agriculture to allow agricultural production with farm products from any land owned by a local landowner;
- 5) a review of the concept to regulate the appearance of a general building in residential zones.

Residual topic from June 14, 2013

- 1) Review of DPS's recommendation concerning land use discretion.

DPS recommended the following replacement text for §3.1.2.D "Uses not specifically listed":

Uses listed are general. The DPS Director or the Director's designee must determine whether a specific use falls within the general use. Specific uses fall within the general use when the use is included within the ordinary meaning of the general use and is similar in impact, nature, function, and duration. Uses that are not allowed as permitted, limited or conditional are prohibited.

Staff recommends using this replacement text.¹ This is a matter of the Council retaining some control over land use. The text proposed by DPS retains the construct that the Council establishes allowable land uses and DPS can determine the details. The Planning Board proposal would grant DPS the authority to identify uses "similar in impact, nature, function, and duration" whether or not the use falls within a listed use. Planning Staff fears future ZTAs for Star Trek transporter stations; staff fears an overly broad delegation of the Council's zoning authority.

- 2) Express the thought proposed in the intent provision of the AR zone concerning the arrangement of lots.

The Committee agreed that the following sentence would be deleted from the intent provision of the AR zone: "Residential uses should be located and arranged to support agriculture as the primary use and to support the rural character of the area."

Staff recommends inserting the following provision into Sec. 4.2.2, General Requirements:

- A. Building Types...
- B. Location of Residential Uses
Residential uses must be located and arranged to support agriculture as the primary use and to support the rural character of the area.

Staff's suggestion to change a "should" to a "must" is for the purpose of having a basis for decision making that has some force. The use of the word "should" in the context proposed by ZTA 13-04 would be a source for future litigation.

- 3) Clarify that the absolute size of non-child lots in the AR zone is not limited.

The unlimited size of a lot would be qualified by the Planning Board's desire to have lots that support agriculture as a primary use. Staff recommends amending §4.2.5.B "Lot and Density" by deleting the provision concerning "Alternative lot area (max)" and adding the following after "Specifications for Lot Coverage":

¹ Given the Zoning Advisers' policy of awarding a hypothetical dollar for each word removed from proposed code, Staff will appropriately credit DPS if the Council agrees with their recommendation.

	Detached House	General
Voluntary Conservation Lots		
<u>Lot Area (voluntary max)</u>	<u>3 acres</u>	<u>3 acres</u>
<u>Remainder of site must be placed in a conservation or agricultural easement or land trust</u>	<u>Yes</u>	<u>Yes</u>
<u>Coverage (max)</u>	<u>15%</u>	<u>n/a</u>

- 4) Amend the definition of agriculture to allow agricultural production with farm products from any land owned by a local landowner.

Staff recommends amending the subsection of the definition of farming to conform to the recommendation of the Agricultural Advisory Committee as follows:

- a. Accessory agricultural processing and storage of products grown or raised on-site or on property owned, rented, or controlled ~~within Montgomery or adjacent counties~~ by the farmer. Accessory agricultural processing includes a milk plant, grain elevator, on-farm animal slaughtering, and mulch or compost production and manufacturing.

- 5) Review of the concept to regulate the appearance of a general building in residential zones.

This topic is addressed in this memorandum.

Overlooked recommendation of the Agricultural Advisory Committee (AAC)

The AAC recommended a new Agricultural Education and Tourism land use:

The AAC recommends this new term is truly needed in the County Zoning Code to address the uses and activities that are currently in place at numerous on-farm markets and other farming operations where agricultural education and tourism activities are offered to the citizens of Montgomery County. These activities are already functioning well as both support to the bottom lines of working farms and as enhancements to the quality of life for all citizens of the County.

This idea was reviewed and rejected by the Planning Board.²

² Agricultural Education/Tourism: Agricultural and accessory activities conducted as 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, locally grown foods, and includes corn mazes, hay rides, and educational tours, classes, and workshops.

Where agricultural education/tourism is allowed as a limited use, it is subject to the following standards:

- a. The property must be farmed and agriculturally assessed.
- b. A minimum of 80% of the property is maintained in agricultural cultivation, pasture land, woodland, or natural features.
- c. Impervious area is a maximum of 8% of the portion of the site where the Agricultural Education/Tourism area is located.
- d. The property must have proper sanitation facilities approved by the Department of Permitting Services.

This memorandum, with significant help from Planning Staff, covers 2 new topics:

Rural Residential zones
Residential zones

Staff recommends:

- **either deleting Playground, Outdoor Area as a land use or removing the “P” from the RNC zone;**
- **deleting any test for general buildings to be compatible and in character with residential uses in residential zones, or changing the land uses “Cultural Institution” and “Group Day Care (9-12 Persons)” to conditional uses in order to implement any such requirement;**
- **applying lot size, lot coverage and open space standards to country inns approved as a conditional use;**
- **prohibiting farms, on-site farm markets, and farm tenant dwellings in small lot residential zones;**
- **for seasonal sales, establishing a duration of sale period and a duration between sale periods in residential zones;**
- **hearing Planning Staff’s explanation for easing restrictions on animal hospitals and veterinary clinics.**

Overview

The current code characterizes the Rural (R), Rural Cluster (RC), and Rural Neighborhood Cluster (RNC) zones as agricultural. ZTA 13-04 would have put them in a new Rural Residential category or zones.³ The RNC zone currently restricts land uses more than the other Rural Residential zones.⁴ This would remain true in ZTA 13-04.

For the most part, zones have not changed their name (although the Rural would be abbreviated as R) or their location on zoning maps. ZTA 13-04 would incorporate the R-150 and RMH-200 zones into the R-200 zone. The RMH zone would be consolidated into the R-60 zone. The Planning Board proposed the same location of the zones on the zoning map.

All Residential Townhouse (RT) zoned land would stay RT until amended by future SMAs, based on future master plan recommendations. For future townhouse areas, townhouse zones would change to 3 levels of townhouse density (TLD, TMD, and THD). These zones would be established as Euclidian and floating zones, but these townhouse zones would not be mapped by the proposed District Map Amendment.

³ The Planning Board proposes that the RS zone, which is currently also in the agricultural zoning category, should go into the industrial category of zones.

⁴ The RNC does not allow industrial agricultural uses, resource extraction, and most recreational facilities.

Rural Residential Zone Issues

Playground, Outdoor Area (Private)

Playground, Outdoor Area (Private) is a new use for Rural Residential and Residential zones. It is defined as an outdoor area used for outdoor recreation, often containing outdoor recreation facilities such as slides, swings, trails and greenways. As an accessory use to residential development, slides and swings would be allowed. Making it a separate land use would allow the use as a primary use.

DPS would currently allow a playground on a separate lot as long as a fee was not charged for the use. When a fee is charged, DPS would consider the use to be a "Recreation and Entertainment Facility" (permitted as a conditional use only in the Rural zone). Free miniature golf would be within the scope of a private outdoor playground. The addition of this land use would not change DPS' treatment of playgrounds.

Currently, the RNC zone only allows trails, amenities for those trails, or other facilities recommended in the relevant master Plan in rural open space areas.⁵ This was a debated issue when the Council first established the RNC zone. **Staff recommends either deleting Playground, Outdoor Area as a land use or removing the "P" from the RNC zone.** Staff notes that some testimony objected to this use in residential zones.

Bed and Breakfast

Currently, a Bed and Breakfast with 2 or fewer rooms is permitted in the R, RC, and RNC zones; with a special exception, up to 5 guest rooms are allowed. ZTA 13-04 would allow a Bed and Breakfast as a limited use with up to 3 guest rooms when the lot is smaller than 2 acres. The minimum lot size for a Bed and Breakfast would be the minimum lot size of the zone. On lots 2 acres or larger, up to 5 rooms would be allowed as a limited use. A Bed and Breakfast owner is required to register with DPS and get a use and occupancy permit before starting the use.

Animal Husbandry (explanation only, fully discussed in Residential zones)

Animal Husbandry is defined as the practice of raising hens, ducks, miniature goats, rabbits or bees (maximum of 8 animals on lots up to 40,000 square feet). Currently, any structure used for housing animals or fowl must be located at least 25 feet from a lot line and 100 feet from any dwelling on a neighboring property. Animal Husbandry would be permitted in rural zones without the current limitation on the location of coops, hutches, barns, or hives. However, if the animals are associated with the farming of livestock (fowl are included as livestock), then setback rules would apply (100 feet from a home and at least 25 feet from a property line).

The only observable means to know whether chickens are associated with farming is to recognize the existence of a farm and that either there are more than 8 chickens (8 is the maximum allowed under Animal Husbandry), or a rooster is being sheltered.

⁵ §59-C-9.572.

Residential zone issues

Implementation

Zones

Except for R-150, RMH-200, RMH and Country Inn (C-Inn) zones, residential zones retain their names and zoning mapped areas. R-150 and RMH-200 zones would become R-200. RMH zoned land would become R-60.

C-Inn zoned property would revert to the property's previous rural or residential zone. Existing county inns would continue to be allowed as a limited use. Any new country inn would be a conditional use. A country inn would be allowed in any house legally existing when the application is filed, without regard to lot size or setbacks. Testimony recommended retaining the C-Inn zone. The Planning Board considered this request but did not agree. The C-Inn zone is the most restrictive zone in the current Ordinance. It only allows a country inn as a principle use. All other allowed uses are essentially accessory to that use. Even a dwelling must be accessory to the country inn.

Staff agrees with the elimination of the C-Inn zone but would not recommend it for a conditional use approval for all existing dwellings without any standards for minimum lot size, maximum coverage, and minimum setback. In the R, RC, RNC, RE-2, RE-2C, RE-1, and R-200 zones, a bed and breakfast would be allowed as a limited use. That use allows up to 3 guest rooms on lots smaller than 2 acres. A country inn allows up to 12 guest rooms; isn't 3 guest rooms enough on small lots? **Staff recommends retaining the standards that apply to a limited use country inn (lot size, lot coverage and open space standards) for a conditional use country inn (applicable to new country inns).**

The District Map Amendment will not apply the new townhouse zones (TLD, TMD, and THD) to any land. As master plans are completed, these Euclidian zones could be applied. Under Article 9 of ZTA 13-04, RT zones would be retained.

General use building – must look like a detached house

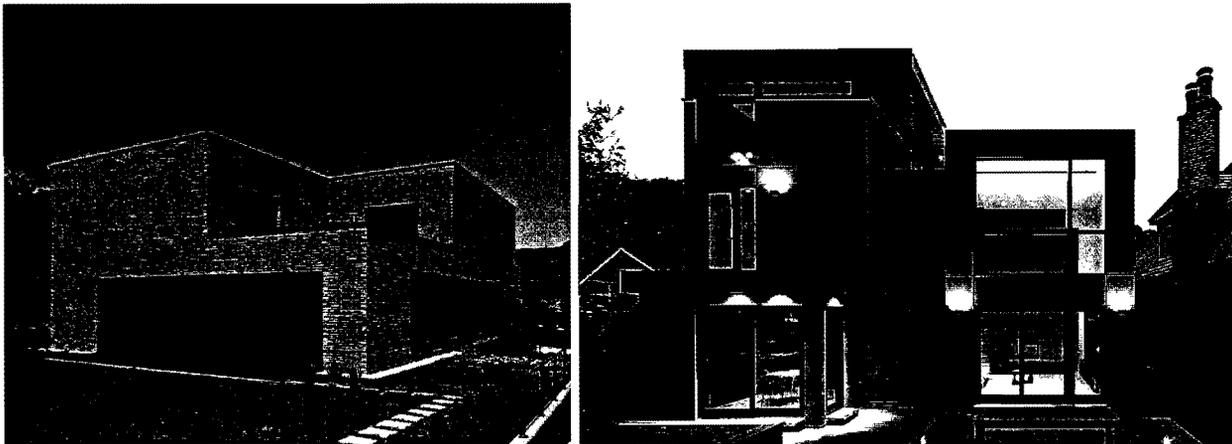
A general building is allowed in all zones. ZTA 13-04 describes a general building as follows:

A building typically containing nonresidential uses including office, commercial, industrial, civic and institutional, or public uses. When a general building is approved for a limited or conditional use in a Residential Detached zone, the building and site design must, to the maximum extent practicable, have the exterior appearance of a detached house.

Non-residential uses are not new to residential zones. Libraries, museums, places of worship, and respite care homes are permitted uses. Chanceries, philanthropic institutions, medical clinics, large care center, hospitals (for humans and non-humans), and nursing homes are allowed by special exception.

Almost all non-residential uses in residential zones require special exception/conditional approval from the Board of Appeals. The exterior appearance is addressed by ZTA 13-04 in §8.3.1.E.2. It is appropriate to make a subjective determination of a residential appearance to the maximum extent possible in the discretionary approval process for a conditional use.

Only DPS processes the permits for permitted and limited uses that do not require site plan approval. The provision to have the exterior appearance of a detached house “to the maximum extent possible” would be a challenge for DPS. Images of detached homes are limited only by one’s imagination. The following pictures are of modern houses:



Staff suspects that the Planning Board is looking for a pitched roof, windows less than floor to ceiling height are separated by wall area, and exterior materials of brick or siding that looks like wood shingles. Reviewing development for these design aspects would be a step into architectural control that the County has not previously taken. The more typical requirement is a finding of compatibility.

If the Council wants to have a finding along the lines proposed by the Planning Board, it could include the provision in the site plan and conditional use section to state that, in Residential Detached zones, the building and site design must be compatible with the character of the residential neighborhood.

A review requirement for compatibility is appropriately a requirement of site plan approval or a conditional use. The requirement as part of the description of a general building is unenforceable surplus text in §4.1.3.F, and staff recommends deleting it. As noted, the “appearance of a detached house” is at best vague.⁶

Cultural Institution use (the replacement for Library and Museum) is proposed as a permitted use in RE-2, RE-1, R-200, R-90, R-60, and R-40 zones. Group Day Care (9-12 Persons) is a limited use in the RE-2, RE-2C, RE-1, and R-200 zones). **If the Council wants to retain the requirement for a general building to be reviewed for compatibility, staff recommends the land uses “Cultural Institution” and “Group Day Care (9-12 Persons)” be changed to conditional uses or not allowing general building for these uses.**

Farming, On-site Farm Market, and Farm Tenant Dwelling

Currently, agricultural uses (farming) and farm tenant dwelling are permitted in the R-200, R-90, R-60 and R-40 zones. The proposed code continues to allow those uses as a limited use. Raising livestock would be prohibited to the extent that use exceeded the bounds of animal husbandry. Testimony

⁶ The Committee already directed staff to amend the general building language to make clear that buildings used entirely for agriculture in the AR zone are not general buildings.

suggested that these uses were no longer appropriate in small lot residential zones. Farming operations are not compatible next to small lot zones. Staff is unaware of any ongoing farming activity in any of these zones. The only remaining large acreages in small lot zones are in use as schools, parks, places of worship, and institutions. Allowing farming in small lot residential zones, which includes agricultural processing, is more a nostalgic reminder of the County's history than good planning. Staff is not persuaded that eliminating livestock farming also eliminates compatibility problems. The proposed Community Garden use should be sufficient to cover food growing aspirations. ***Staff recommends prohibiting farms, farm markets, and farm tenant dwellings in small lot residential zones (R-90 through R-40).***

Animal Husbandry

Unlike Rural zones where animal husbandry is a permitted use, animal husbandry would be a limited use in residential zones. The maximum number of animals would be limited to 8 (not counting bees) but may not be more than 1 hen, duck, or rabbit for every 1,000 square feet of **land area** and 1 miniature goat for every 2,000 square feet of land area (*staff assumes that the square footage limits mean lot area and will make that change*). Roosters would be prohibited. The current setbacks for structures that house animals would be eliminated. Other jurisdictions have reduced or are reconsidering their restriction on suburban chickens.⁷ The current code requirements (25 feet from a side yard and 100 feet from a neighboring house) prohibit the use on small lots.

Some residents are passionate about this issue. Some see this as an issue of sustainability, pet choice, and an appropriate use for a backyard. To them, the current restrictions are nothing but over-regulation. Other residents want to enjoy their own backyard without hearing, seeing, or smelling their neighbor's animals or the wild animals that might be attracted to them. To these residents, the current restrictions are warranted.

The provision as proposed will present challenges to DPS. Instead of merely examining the location of a chicken coop and its distance from neighboring houses and a lot line, DPS inspectors would be required to count animals, determine the size of the lot, and determine the existence or non-existence of any roosters. The current provisions essentially prohibit chicken coops in all 6,000 square foot lots and most 9,000 square foot lots. There is the potential for the volume of complaints to go up as the number of residents who raise chickens goes up.

Zoning was first deemed permissible by the Supreme Court in the 1926 Euclid v. Amber decision. In that case, Justice Southerland wrote: "A nuisance may be merely a right thing in the wrong place — like a pig in the parlor instead of the barnyard." The Council needs to decide if a chicken shelter in the backyard is in the right place or if it is too close to being a pig in the parlor.

⁷ Howard County is considering easing restrictions on keeping chickens in urban or suburban settings (from 40,000 square foot minimum lot size requirement to 10,000 square feet). The City of Annapolis gave residents in single-family homes permission last spring to keep up to five hens with the approval of abutting property owners. A group in Baltimore County is trying to muster support to soften the rules there. Arlington is expected to get a recommendation on this issue from a task force on June 11.

Options

- Accept the new standards as proposed
- Reduce the maximum of animals
- Reduce the current setbacks
- Retain the current setbacks

No one testified against beekeeping. If the Council wants to retain setbacks for chicken coops, it could have more permissive standards for beehives.

Community Garden

This use would allow a group of people to grow plants, fruits, vegetables, and grain. It would not allow sale on-site, although sale may be allowed under “Seasonal Outdoor Sales” or “Agricultural Vending”. It is not a new use to residential zones because agricultural uses are currently permitted.

Seasonal Outdoor Sales

Currently, Christmas tree sales are a permitted use in residential zones between December 5 and December 25. ZTA 13-04 would expand that idea to allow seasonal sales of farm products offered annually for a limited time (pumpkins and evergreen trees). The use would then be limited to property used for non-residential purposes and would generally require that a property front on a primary street or higher. Sales at a religious institution would not be required to be on a primary road. The current restrictions on Christmas tree sales in the RE-2C zone are not included in the proposed text. *It will be a challenge for DPS inspectors to determine if a use is seasonal when the duration of sales in any season is not limited. If the Council wants to approve this, staff recommends establishing the duration of the sale period and the time between seasonal sales.*

Agricultural Vending

This use replaces the farm market use, which is currently allowed only in zones with larger minimum lot sizes (RE-2, RE-2C, RE-1, and R-200). Agricultural vending incorporates current standards into limited use standards (must be located on 2 acre non-residential site, frontage on a 4 lane road,) and expands use to other residential zones where land is being farmed. The seller must be a farmer (certified as an agricultural producer under Chapter 47).

Farm Market, On-site

Unlike Agricultural vending, this use is limited to active farms. No more than 25% of produce may be grown off-site.⁸

⁸ The provision in code for getting a vendor license to sell produce along a road is different than the proposed provision in that it requires produce to be regionally grown. §47-2(c):

A vendor who is a certified producer under standards set by regulation under method (2) may sell fresh produce on the right-of-way of any public road in locations and at times of the day that will not affect public safety. In this Section, "fresh produce" means:

- (1) **regionally** grown fresh fruit, vegetables, herbs, cut flowers, small trees, and plants; and
- (2) non-potentially hazardous prepackaged goods and eggs approved by the Department of Health and Human Services.

Veterinary Office/Hospital and Animal Boarding and Care

For Veterinary Hospital, the Planning Board recommends reducing the setbacks from 200 feet to 75 feet for exterior exercise area and expanding the hours of outdoor care allowed. Currently, outdoor activity is prohibited for Veterinary Hospitals to between 6:00 p.m. and 8:00 a.m. ZTA 13-04 would only prohibit outdoor exercise between 9:00 p.m. and 7:00 a.m. Allowable noise level during the day would increase from 40 dBA to 60 dBA. Animal Boarding Places would allow identical increases in noise and an expanded time period for outdoor exercise. The setback would also be reduced, but from 75 feet to 50 feet. *Staff recommends that Planning Staff explain how more noise that would be closer to neighbors and for a longer duration is in the public interest.*

Consistent with the current code, a veterinary hospital is a conditional use in all residential zones, but animal boarding is only a conditional use in the R-200 and larger lot zones. Animal Boarding and Care is a use for the benefit of healthy animals and their owners. Whereas veterinary hospitals are limited by the number of veterinarians in the County, there is no limit to the potential number of animal boarding establishments. There are more specific requirements for animal boarding use than for an animal hospital regarding setbacks, acoustics, and animal waste. For these reasons, animal boarding is a prohibited use in small lot single family zones.

Family Day Care

The day care for seniors use is consolidated with the day care for children use. Family Day Care for up to 8 children is a permitted use under current zoning. Currently, day care for 4 or more adults requires a special exception. Day care for seniors is proposed as a permitted use up to 8 persons because the impact of a facility would be similar to a child day care facility.

Bed and Breakfast

In the R, RC, RNC, RE-2, RE-2C, RE-1, and R-200 zones, a bed and breakfast would be allowed as a limited use. It would be a conditional use in the R-90 and R-60 zones. As a limited use, it would allow up to 3 guest rooms when the lot size is smaller than 2 acres. A guest may stay for a maximum of 14 days for any one visit. Currently, only 2 rooms are allowed as a permitted use in all but the R-60 zone; in the R-60 zone, even 2 rooms currently requires a special exception. Currently, any more than 2 rooms requires a special exception in all Residential zones. The proposed text would allow an expansion of bed and breakfast use without a review of any special circumstances. The parking standards would require 1 parking space for each guest room in addition to the spaces required for the house.

Mining and Excavation

“Mining and Excavation” would replace “Rock or Stone Quarries” in the current code. It is and would continue to be a limited use in the R-200 zone for pre-1958 operations. It would also (under 3.6.5.B.1.c) be allowed as a conditional use. The Committee has already agreed that where both a limited and conditional use are allowed, the box in the land use table should indicate “L/C”. Despite testimony to the contrary, the standards for a pre-1958 quarry as a conditional use do not change. The proposed provision indicates that the standards of 3.6.5.B.2 do not apply. Staff believes the intent of the provision to exclude the standards of 3.6.5.B.2 for pre-1958 lots is clear. The Council could repeat that the additional standards in B.2 do not apply to pre-1958 operations that seek a conditional use in B.2 if it believes that the intent is not clear.

Rural Residential Zones

Proposed Draft:

Article 59-2: Zoning Districts

Section 2.1.4.A establishes the three Rural Residential zones, the R (Rural), RC (Rural Cluster), and RNC (Rural Neighborhood Cluster) zones. Section 2.1.4.B provides the intent statement for the Rural Residential zones.

Changes from the current code:

- The R, RC, and RNC zones are currently categorized as agricultural zones. The proposed draft creates a new category for these zones that more closely aligns with the intent of these zones.
- Modified the intent statement of the zone as follows:

B. Intent Statements

1. Rural (R)
The intent of the R zone is to preserve rural areas of the County for agriculture and other natural resource development, residential uses of a rural character, extensive recreational facilities, and protection of scenic and environmentally sensitive areas.
2. Rural Cluster (RC)
The intent of the RC zone is to provide designated areas of the County for a compatible mixture of agricultural uses and very low-density residential development, to promote agriculture, and to protect scenic and environmentally sensitive areas. The RC zone permits an Optional Method Cluster alternative to provide greater flexibility in achieving a compatible mixture of agricultural and residential uses and to protect scenic and environmentally sensitive areas without jeopardizing farming or other agricultural uses. (Taken from the purpose statement for Cluster Development).
3. Rural Neighborhood Cluster (RNC)
 - a. The intent of the RNC zone is to preserve open land, environmentally sensitive natural resources, and rural community character ~~that would be lost under conventional large lot zoning~~ through clustering of residential development in the form of small neighborhoods that provide neighborhood identity in an open space setting. A master plan must recommend the RNC zone, and must provide development guidelines and recommendations regarding density, and the location and rationale for preserving the rural open space.
 - b. It is also the intent of the RNC zone to implement the recommendations of the applicable master plan, such as maintaining broad vistas of open space, preserving agrarian

character, or preserving environmentally sensitive natural resources to the maximum extent possible, and to ensure that new development is in harmony with the policies and guidelines of the applicable master plan and is compatible with existing development in adjoining communities. (Reordered from current code, nothing deleted).

Article 59-3: Uses and Use Standards

Article 59-3 is significantly different in format from the current ordinance. It contains one use table showing all the zones and uses. Next to each use in the table is a section reference for both the definition and any use standards. New, too, is the concept of the limited use. Currently, uses are either permitted by-right, “P” in the use table, or require a special exception, denoted “SE”. The proposed draft specifies uses as “P”, permitted by-right, or “L”, permitted by-right but limited by particular use standards, or “C”, permitted conditioned on approval by the Board of Appeals or the Hearing Examiner.

The following table is a summary of the single use table in Section 3.1.7. of the proposed code. It lists all uses allowed in the AR zone, the current use name(s), how the use is allowed, and a brief explanation for uses that have been consolidated or have changed.

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
AGRICULTURAL				
Agricultural Processing	Agricultural Processing, primary	P (RNC)	C (R, RC)	Consolidates several agricultural processing uses – standardizing the use standards. Removed Agricultural Processing in the RNC zone, incompatible as a primary use in cluster development. The “P” for the RNC zone is a publication error.
	Agricultural Processing	SE (R, RC)		
	Grain Elevator	SE (R, RC)		
	Manufacturing of Mulch and Composting	SE (R, RC)		
	Milk Plant	SE (R, RC)		
	Sawmill	SE (R, RC)		
Community Garden	Other Agricultural Uses	P (R, RC, RNC)	L (R, RC, RNC)	Provides limited use standards specifying coverage (10%) and accessory structure height (12 ft).
Equestrian Facility	Equestrian Facility	P/SE (R, RC, RNC)	L (R, RC, RNC)	Incorporates current standards regulated under Section C-9.31. Retains ability to seek a special exception/conditional use to deviate from specific standards.
Farm Supply, or Machinery Sales, Storage, Service	Farm machinery: sales, storage, or service	SE (RC)	C (RC)	Consolidates two uses. Retains use standards associated with more intense use.
	Farm supply: sales, storage, or service	SE (RC)		

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
Farming	Farm	P (R, RC, RNC)	P (R, RC, RNC)	Consolidates farming uses into one use.
	Fish Hatchery	P (R, RC, RNC)		
	Other Agricultural Uses	P (R, RC, RNC)		
Nursery (Retail)	Nursery, horticultural – Retail	SE (R, RC, RNC)	C (R, RC, RNC)	
Nursery (Wholesale)	Nursery, horticultural – Wholesale	SE (R, RC, RNC)	C (R, RC, RNC)	
Slaughterhouse	Abattoir	SE (R, RC)	C (R, RC)	20 acre minimum with frontage to at least a primary road.
Winery	Winery	P/SE (R, RC)	L (R, RC)	Incorporates current limit on events into limited use standards. Retains ability to seek a special exception/conditional use to deviate from specific standards with increased minimum lot size.
		SE (RNC)	C (RNC)	
Accessory Agricultural Uses				
Animal Husbandry	Farm	P (R, RC, RNC)	P (R, RC, RNC)	Including Animal Husbandry as a permitted use clarifies that the use is allowed – even though the more intense use of farming is also a permitted use in the Rural Residential zones. Setback retained for structures housing farm livestock.
	Other Agricultural Uses	P (R, RC, RNC)		
Farm Airstrip, Helistop	Airstrip, Associated with Farming Operations	SE (RC)	C (RC)	Consolidates two uses. Retains restriction for use only when associated with agricultural operations.
	Helistop	SE (R, RC)		
Farm Market, On-site	Farm Market	P (R, RC, RNC)	L (R, RC, RNC)	Incorporates current standards (25 ft. setback – at least 3 parking spaces – at least 25% on-site products).
Temporary Agricultural Uses				
Seasonal Outdoor Sales	Christmas Tree Sales between Dec. 5 and 25	P (R, RC, RNC)	L (R, RC, RNC)	Christmas Tree Sales are currently a permitted use. Limited to locations where the use is non-residential – the need for a primary standard road is not required for sites of Religious Assembly.

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
RESIDENTIAL				
Single-Unit Living	Dwellings, one-family detached	P (R, RC, RNC)	P (R, RC, RNC)	
	Mobile Home, double-wide	P (R, RC, RNC)		
Two-Unit Living	Dwellings, one-family semi-detached	P (RNC)	P (RNC)	
Townhouse Living	Townhouse	P (RNC)	P (RNC)	
Group Living (Use Group)	(Use Group – see individual uses below)			
Independent Living Facility for Seniors or Persons with Disabilities	Housing and Related Facilities for Senior Adults or Persons with Disabilities	SE (R, RC, RNC)	C (R, RC, RNC)	
Residential Care Facility (up to 8)	Adult Foster Care Home	P (R, RC, RNC)	P (R, RC, RNC)	Small group homes are a permitted use in this zone, per state law. A small hospice care facility (up to 8 persons) functions in a similar manner to these other residential care facilities.
	Group Home, small	P (R, RC, RNC)		
	Respite Care Home	P (R, RC, RNC)		
Residential Care Facility (9 to 16)	Group Home, large	SE (R, RC, RNC)	C (R, RC, RNC)	
Residential Care Facility (over 16)	Domiciliary Care Home (more than 16 residents)	SE (R, RC, RNC)	C (R, RC, RNC)	These uses have been consolidated with other residential care uses (e.g. nursing home). These uses will be allowed based on the number of residents.
	Hospice Care Facility	SE (R, RC, RNC)		
	Life Care Facility	SE (R, RC, RNC)		
	Nursing home	SE (R, RC, RNC)		
	Sanitarium	SE (R, RC, RNC)		
Accessory Residential Uses				
Attached Accessory Apartment	Registered Living Unit	P (R, RC, RNC)	L (R, RC, RNC)	Current ZTA incorporated as limited use standards retaining ability to seek a special exception/conditional use approval if certain standards cannot be met. Registered Living Units are consolidated under the accessory apartment use. Accessory apartments, like Registered Living Units are permitted without a special exception.
	Accessory Apartment	P/SE (R, RC, RNC)		

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
Detached Accessory Apartment	Accessory Apartment	SE (R, RC)	C (R, RC)	
Farm Tenant Dwelling	Farm Tenant Dwelling	P (R, RC, RNC)	L (R, RC, RNC)	Restricts Farm Tenant Dwelling to less than 4 mobile homes but a conditional use is not required.
	Farm Tenant Mobile Home, more than one but less than 4	SE (R, RC, RNC)		
Guest House	Guest house, as accessory use	P (R, RC, RNC)	L (R, RC, RNC)	Current limits are retained (lot owner must be resident – not permitted if TDRs are severed).
Home Health Practitioner (Low Impact)	Home Health Practitioner's office	P/SE (R, RC, RNC)	L (R, RC, RNC)	Separated use into low and high impact (low impact is one client at a time but no more than 5 vehicular trips at the same time) and major impact to clarify use standards and process. <u>§ 3.3.3.G.3.b.i needs editing.</u>
Home Health Practitioner (Major Impact)	Home Health Practitioner's office	P/SE (R, RC, RNC)	C (R, RC, RNC)	
Home Occupation (No Impact)	Home Occupation, no impact	P (R, RC, RNC)	L (R, RC, RNC)	Same standards as current code (no non-resident employees – 5 visits and deliveries per week).
Home Occupation (Low Impact)	Home Occupation, registered	P (R, RC, RNC)	L (R, RC, RNC)	Same standards as current code (1 non-resident employee; max. 20 visits per week).
Home Occupation (Major Impact)	Home Occupation, major	SE (R, RC, RNC)	C (R, RC, RNC)	

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
CIVIC and INSTITUTIONAL				
Charitable, Philanthropic Institution	Charitable or Philanthropic Institution	SE (R, RC, RNC)	C (R, RC, RNC)	
Cultural Institution	Libraries and Museums	P (RC, RNC)	L (RC, RNC)	Site plan required in the RC and RNC zone if over 5,000 sq ft – max 5,000 sq ft in the CRN zone.
Family Day Care (up to 8)	Child Day Care Facility: Family Day Care Home	P (R, RC, RNC)	P (R, RC, RNC)	The day care for seniors use has been consolidated with the day care for children use. Family Day Care for up to 8 children is a permitted use under current zoning. Day care or seniors is proposed as a permitted use up to 8 persons because the impact of a facility would be similar to a child day care facility.
	Day Care Facility for up to 4 Senior Adults and Persons with Disabilities	P (R, RC, RNC)		
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (R, RC, RNC)		
Group Day Care (9 to 12)	Child Day Care Facility: Group Day Care Home	P (R, RC, RNC)	L (R, RC, RNC)	Day care for up to 12 children is permitted, subject to certain standards under current zoning regulations. Day care or seniors is proposed as a permitted use up to 8 persons because the impact of a facility would be similar to a child day care facility.
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (R, RC, RNC)		
Day Care Center (13 to 30)	Child Day Care Facility: Child Day Care Center	SE (R, RC, RNC)	C (R, RC, RNC)	
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (R, RC, RNC)		
Day Care Center (over 30)	Child Day Care Facility: Child Day Care Center	SE (R, RC, RNC)	C (R, RC, RNC)	
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (R, RC, RNC)		

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
Educational Institution (Private)	Educational Institutions, private	SE (R, RC, RNC)	C (R, RC, RNC)	Religious institutions do not need a special exception (same as current code)
Playground, Outdoor Area (private)	Recreational facilities primarily for the use of residents(accessory use not listed in current code)		P (R, RC, RNC)	An outdoor area used for outdoor recreation often containing outdoor recreation facilities such as slides, swings, trails and greenways.
Private Club, Service Organization	Private Clubs and Service Organizations	SE (R, RC, RNC)	C (R, RC, RNC)	
Public Use (except Utilities)	Publicly Owned or Publicly Operated Use	P (R, RC, RNC)	P (R, RC, RNC)	
	Ambulances or Rescue Squads, publicly supported	P (R, RC, RNC)		
	Fire Stations, publicly supported	P (R, RC, RNC)		
Religious Assembly	Churches, memorial gardens, convents, monasteries and other places of worship	P (R, RC, RNC)	P (R, RC, RNC)	
Swimming Pool (Community)	Swimming Pools, community	SE (R, RC, RNC)	C (R, RC, RNC)	

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
COMMERCIAL				
Animal Boarding and Care	Animal Boarding Place	SE (R, RC, RNC)	C (R, RC, RNC)	Modified conditional use standards regarding noise, setback (reduced from 75 to 50 for accessory buildings), hours of outdoor care allowed until 9:00 p.m. – currently 8:00 p.m..
Veterinary Office/ Hospital	Hospital, Veterinary	SE (R, RC, RNC)	C (R, RC, RNC)	Modified conditional use standards regarding noise, setback for exterior areas (setback reduced from 200 feet to 75 feet), hours of outdoor care allowed until 9:00 p.m. – currently 8:00 p.m.
Cable Communication System	Cable Communication s System	SE (R, RC, RNC)	C (R, RC, RNC)	
Media Broadcast Tower	Radio and Television Broadcasting Stations and Towers	SE (R, RC)	C (R, RC)	
Telecommunication Tower	Telecommunicat ions Facility	P/SE (R, RC) SE (RNC)	L (R, RC) C (RNC)	
Cemetery	Cemetery	SE (R, RC, RNC)	C (R, RC, RNC)	
	Family Burial Sites	SE (R, RC)		
Landscape Contractor	Landscape Contractor	SE (R, RC, RNC)	C (R, RC, RNC)	
Bed and Breakfast	Bed-and-breakfast lodging with one or 2 guest rooms	P (R, RC, RNC)	L (R, RC, RNC)	All non-discretionary Special Exception standards are retained as Limited Use standards.
	Bed-and-breakfast lodging with 3, 4 or 5 guest rooms	SE (R, RC, RNC)		

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
(Removed)	Parking of Motor Vehicles, off-street, in connection with any use permitted	P (R, RC, RNC)		Primary use surface parking lots are not considered a compatible agricultural land use. This does not affect parking on-site (accessory) for any use allowed in the zone.
Surface Parking for Commercial Uses in a Historic District	Parking of motor vehicles, off-street, in connection with commercial uses	P (R)	L (R)	Clarified that the use is intended only for commercial uses in an historic district.
Campground	Campgrounds	SE (R)	C (R)	
	Camp retreat, non-profit	P (RC)	L (RC)	Retains current footnote allowing only those established by a certain date.
Golf Course, Country Club	Golf Course	SE (R, RC)	C (R, RC)	
	Country Club	SE (R, RC)		
Recreation and Entertainment, Indoor (Capacity up to 1,000)	Recreational or Entertainment Establishment, Commercial	SE (R)	C	
	Theaters, legitimate	SE (R)	C	
Recreation and Entertainment, Outdoor (Capacity up to 1,000)	Recreational or Entertainment Establishment, Commercial	SE (R)	C	
Shooting Range (Outdoor)	Rifle, pistol, or skeet shooting range, outdoor	SE (R, RC)	C (R, RC)	
Rural Antique Shop	Antique Shop	SE (R, RC, RNC)	C (R, RC, RNC)	
Rural Country Market	Country Market	SE (R, RC, RNC)	C (R, RC, RNC)	
Accessory Commercial Uses				
Amateur Radio Facility (up to 65')	Amateur Radio Facility	P/SE (R, RC, RNC)	P (R, RC, RNC)	An Amateur Radio Facility is permitted with a height up to 65 feet.
Amateur Radio Facility (over 65')	Amateur Radio Facility	P/SE (R, RC, RNC)	C (R, RC, RNC)	Where height is greater than 65 feet, a special exception/conditional use approval is required.

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
Antenna on existing structure	Rooftop Mounted Antennas and related unmanned equip. building, equip. cabinets, or equip. room	P (R, RC, RNC)	L (R, RC, RNC)	Incorporates current limits (maximum 5 ft. high and 3 inch diameter or 8 feet diameter – 560 square foot equipment area).
	Telecommunications Facility	P/SE (R, RC, RNC)		
Temporary Commercial Uses				
Construction Administration or Sales Office	Temporary Construction Administration or Sales Office (allowed by 59-B-6.11)	P (R, RC, RNC)	L (R, RC, RNC)	Currently allowed in all zones under certain conditions (on the site of construction, maximum 1 year plus extensions, landscaping, screening from building materials).
Transitory Use	Transitory Use	P/SE (R, RC, RNC)	L (R, RC, RNC)	Incorporates footnote 39 and standards under Section A-6.22.
INDUSTRIAL				
Mining, Excavation	Rock or Stone Quarry, as a temporary use	SE (R, RC)	C (R, RC)	Consolidates two uses. Current special exception for Sand, Gravel or Clay Pits references the standards the special exception standards for the Rock or Stone Quarry use.
	Sand, Gravel or Clay Pit, or extraction of other natural materials, as a temporary use	SE (R, RC)		
Railroad Track	Railroad Track	P (R, RC)	P (R, RC)	
Distribution Lines (Above Ground)	Electric Power Transmission and Distribution Lines, overhead, carrying 69,000 volts or less	P (R, RC, RNC)	P (R, RC, RNC)	Electric Power Transmission and Distribution Lines, overhead, carrying more than 69,000 volts cannot be regulated under the zoning ordinance
	Electric Power Transmission and Distribution Lines, overhead, carrying more than 69,000 volts	SE (R, RC, RNC)		
	Telephone and Telegraph Lines	P (R, RC, RNC)		

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
Distribution Lines (Below Ground)	Telephone and Telegraph Lines	P (R, RC, RNC)	P (R, RC, RNC)	
	Electric Power Transmission and Distribution Line, underground	P (R, RC, RNC)		
Pipeline (Above Ground)	Pipelines, above ground	SE (R, RC)	C (R, RC)	
Pipeline (Below Ground)	Pipelines, underground	P (R, RC, RNC)	P (R, RC, RNC)	
Public Utility Buildings or Structure	Public Utility Buildings and Structures	SE (R, RC, RNC)	C (R, RC, RNC)	

Proposed Use/Use Group	Current Use	Allowed in the R, RC, and/or RNC	Proposed in the R, RC and/or RNC	Notes
MISCELLANEOUS				
Noncommercial Kennel	Kennels, Noncommercial	P (R, RC, RNC)	P (R, RC, RNC)	
Solar Collection System	Accessory Buildings, Structures and Uses	P (R, RC, RNC)	L (R, RC, RNC)	Provides use standards specific to solar panels as an accessory use.
Wildlife, Game Preserve, and Other Conservation Areas	Wildlife or Game Preserve	P (R, RC)	P (R, RC)	
ACCESSORY MISCELLANEOUS USES				
Accessory Structures	Accessory Buildings, Structures and Uses	P (R, RC, RNC)	L (R, RC, RNC)	Incorporates restriction on size of accessory structures. Retains exemption for structures housing an agricultural use.
	Boathouse, Private	P (R, RC, RNC)		
	Hunting or Fishing Cabin, Private	P (R, RC)		
	Signs	P (R, RC, RNC)		
Security Pavilion	Security Pavilion	P (R, RC, RNC)	L (R, RC, RNC)	Incorporates current limits (maximum 14 X 14 on a minimum 2 acres lot –front setback 30 ft.)
USES REMOVED				
Current Use		Rationale for Removal		
Parking of Motor Vehicles, Off-street, in connection with commercial uses	P (R)	Parking as the primary use of a parcel of land in the Rural zone is not compatible with the rural character of the area. Surface Parking for Commercial Uses in a Historic District has been retained.		
Parking of Motor Vehicles, Off-street, in connection with any use permitted	P (R, RC, RNC)	Parking as the primary use of a parcel of land in the Rural zone is not compatible with the rural character of these zones. Surface Parking for Commercial Uses in an Historic District has been retained. Removal of this use does not affect parking on-site (accessory) for any use allowed in the zone.		
Swimming Pool, private	P (R, RC, RNC)	A Swimming Pool, private is a pool owned by not more than 10 families and used by only member families and their guests. Footnote 16 adds that a Swimming Pool, private is “for use of the property owner and their nonpaying guest”.		

Changes from the current code:

- *Use Consolidation and Simplification*

1. Agricultural Processing.

- The proposed Agricultural Processing use is a consolidation of the following current agricultural processing uses: Agricultural Processing, Grain Elevator, Manufacturing of Mulch and Composting, Milk Plant, and Sawmill.
- Proposed use standards require
 - a minimum lot area of 10 acres; and
 - minimum setback from any lot line of 75 feet.
- The current standards for the various agricultural processing uses are as follows:

Use	Minimum lot area in acres	Minimum setback in feet
Agricultural Processing	10	75
Grain elevator	5	75
Manufacturing of Mulch and Composting	5	50
Milk Plant	10	75
Saw Mill	n/a	50

2. Farm Supply or Machinery Sales, Storage, and Service.

- The proposed use Farm Supply or Machinery Sales, Storage and Service is a consolidation of Farm Machinery: Sales, Storage or Service, and Farm Supply: Sales, Storage or Service.
- Proposed use standards require
 - a minimum lot area of 5 acres; and
 - a minimum setback from any lot line of 75 feet.
- Currently, Farm Machinery: Sales, Storage or Service requires a minimum lot area of 5 acres, and a minimum setback from any lot line of 75 feet. Farm Supply: Sales, Storage or Service requires a minimum lot area of only 2 acres, and a minimum setback from any lot line of 50 feet.

3. Farm Airstrip, Helistop.

- The proposed Farm Airstrip, Helistop use is a consolidation of the farm airstrip and helistop uses. The consolidated use restricts the operation to only those associated with agricultural operations. This restriction is currently in place under the RC zone for both the airstrip and helistop. A farm airstrip is not currently allowed in the rural zone. A helistop in the rural zone is not restricted to agricultural operations. The Farm Airstrip, Helistop use is not allowed in the rural zone in following the current farm airstrip use; however, this removes the helistop use from the Rural zone.

4. Farm Tenant Dwelling.

- The proposed Farm Tenant Dwelling use is a consolidation of the following uses: Accessory Dwelling for Agricultural Workers, Farm Tenant Dwelling and Farm Tenant Mobile Home, more than one but less than 4.
- Both Accessory Dwelling for Agricultural Workers and Farm Tenant Dwelling are permitted uses. Farm Tenant Mobile Home, more than one but less than 4 is currently a special exception. The proposed code retains any non-discretionary special exception standards as limited use standards under the consolidated use.

5. Day Care Facility.

- Adult and child day care uses have been consolidated under a broader day care use without differentiating the use based on recipient age.
- Currently, the use Day Care Facility for more than four Senior Adults and Persons with Disabilities allows for up to 40 persons.
- The proposed code distinguishes Day Care use based on capacity. Family Day Care allows up to 8 persons. Group Day Care Home is for 9-12 persons. These are both currently permitted uses in the Agricultural zones and will remain permitted in the Rural Residential zones. Day Care Center, currently a special exception, has been split into two uses based on size: Day Care Center (13-30 persons); and Day Care Center (over 30 persons). Both are proposed as a conditional use.

6. Residential Care Facility.

- The proposed code recommends consolidating 9 residential care-type uses into one use, Residential Care Facility, which is differentiated by the capacity of the facility.
- Residential care homes that care for up to 8 persons are a permitted use in almost every zone. Currently, this includes Adult Foster Care Home, Respite Care Home, and Group Home, Small (up to 8 residents).
- Hospice Care Facility, Sanitarium, Nursing Home and Life Care Facility have no stated limitation on capacity. All of these uses are currently a special exception in the R, RC, and RNC zones. A Group Home, Large (9-16 residents), and Domiciliary Care Home for more than 16 persons also require a special exception in the R, RC, and RNC zones.
- In the proposed code, Residential Care Facility (up to 8) is a permitted use in the Rural Residential zones. Residential Care Facility (9-16 persons) and Residential Care Facility (over 16 persons) are proposed as conditional uses.

• *Modified Conditional Use Standards*

1. Animal Boarding and Care

- Some of the current special exception standards for animal boarding in a rural or residential zone have been modified.
 - On weekdays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 8 a.m. and 6 p.m. and 50

dBa between the hours of 6 p.m. and 8 a.m. On Saturdays, Sundays, and Federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. and 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.

- For all buildings in which animals will be contained, maximum expected sound levels emanating from the interior of the building must be reduced to 40 dBA (A-weighted decibels) and outside satisfy Chapter 31B as measured at ten feet from the structure at the property line.
 - Propose to combine into one standard, “The sound at the nearest property line must not exceed the maximum allowable noise levels as specified under Chapter 31B.”
- No animals may be outdoors between 6 p.m. and 8 a.m. (This corresponds to the definition of weekday, nighttime hours under Chapter 31B).
- All buildings and accessory structures must be set back from any property line a minimum of 50 feet.

2. **Veterinary Office/Hospital**

- On weekdays, The sound at the nearest receiving property line must not exceed 60 dBA between the hours of 8 a.m. and 6 p.m. and 50 dBA between the hours of 6 p.m. and 8 a.m. On Saturdays, Sundays, and Federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. and 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.
- For all buildings in which animals will be contained, maximum expected sound levels emanating from the interior of the building must be reduced to 40 dBA (A-weighted decibels) and outside satisfy Chapter 31B as measured at ten feet from the structure at the property line.
 - Propose to combine into one standard, “The sound at the nearest property line must not exceed the maximum allowable noise level as specified under Chapter 31B.”
- No animals being may be outdoors between 6 p.m. and 8 a.m. (This corresponds to the definition of weekday, nighttime hours under Chapter 31B).
- All buildings and accessory structures must be set back from any property line a minimum of 50 feet from any residential lot line.
- Exterior areas used to exercise, walk or keep animals must be set back from any property line a minimum of 75 feet from any lot line and be screened from adjacent residential properties.

- *New Uses*

1. **Community Garden.**

- A Community Garden is the cultivation of land by a group of people to grow products for personal use or distribution; not for sale on-site. The limited use standards restrict gross floor area of all structures to 10% of the lot or parcel, accessory structure height is limited to 12 feet, and only manual or walk-behind mechanical equipment and practices commonly used in residential gardening are allowed.

2. **Seasonal Outdoor Sales.**

- Seasonal Outdoor Sales is the temporary sale of seasonal farm products such as pumpkins and evergreen trees. The limited use standards require a temporary use permit from DPS, the sales site cannot be used for residential purposes, and if on the site of a Religious Assembly use, the site must front on and have access to a road built to primary or higher standards.

3. **Playground, Outdoor Area (Private).**

- This is a new use to accommodate active and passive recreational uses in common open space.

4. **Solar Collection System.**

- A Solar Collection System is allowed only as an accessory use; free-standing systems are limited to the production of 120% of the on-site energy consumption.

- *Uses Removed*

1. **Parking of Motor Vehicles, off-street, in connection with commercial uses.**

- This use has been removed, except for surface parking for commercial uses in a historic district. This is a commercial use of agricultural/residential land. Once used for parking, the property becomes commercial. During subsequent master plan review such properties tend to be recommended for commercial zoning, thereby removing the property from the primary intended use of the zone.

2. **Parking of Motor Vehicles, other than heavy commercial vehicle, off-street in connection with any use permitted.**

- This use was removed as a primary use. Surface parking lots are not considered a compatible rural land use. This does not affect parking on-site (accessory) for any use allowed in the zone.

3. **Swimming Pool, private.**

- A Swimming Pool, private is a pool owned by not more than 10 families and used by only member families and their guests. In the R, RC, and RNC zones, however, footnote 16 adds that a Swimming Pool, private is “for use of the property owner and nonpaying guests only”.

- *Change from Special Exception Use to a Limited Use*

Bed and Breakfast

All non-discretionary special exception standards have been retained as limited use standards.

Article 59-4: Euclidean Zone Requirements: General and Standard Method

This article provides general information regarding building types, measurements and exceptions, development requirements for standard method development by zone, and regulations for overlay zones.

Changes from the current code:

Section 4.1.3 Building Types is an entirely new section establishing building types and describing their basic attributes. Section 4.1.4 Building Types Allowed by Zone is also an entirely new section establishing which building types are allowed in each zone. The Rural and Rural Cluster zones only allow detached houses and general buildings. Standards for the general building are entirely new, reflecting the need to address the development of uses other than residential living that are currently allowed in the Rural Residential zones. In addition to detached houses and general buildings, the Rural Neighborhood Cluster zone allows duplex and townhouse building types.

Section 4.1.5 Measurement and Exceptions replaces several definitions from Section 59-A-2 and Article 59-B. This section is organized to parallel the development standard tables for each of the zones:

- A. Site;
- B. Lot and Density;
- C. Placement;
- D. Height; and
- E. Form.

Several terms not defined under the current code are defined in this section. Site is defined as “an area of land including all existing and proposed lots and parcels in one application, except proposed and existing dedications and rights-of-way.” Lot has been redefined from “A parcel of land occupied or to be occupied by a building and its accessory buildings or by group dwellings and their accessory buildings, together with such open spaces as are required under the provisions of this chapter, having at least the minimum area required by this chapter for a lot in the zone in which such lot is situated and having its principal frontage on a public street or public way” to “A contiguous area of land that is described by a plat recorded in the land records for which a building permit can be issued.” This change removes unnecessary language about development standards that are addressed by the standards of the zone.

A new section defining building setbacks and their measurement has been added. Corner lots remain defined as they currently are; the proposed language for the measurement of setbacks on corner lots is similar, but the proposed language for corner lots is new.

Under Mechanical Equipment and Utility Line Encroachments, a permanent rainwater collection or harvesting system may project a maximum of 3 feet into any side street or side or rear setback.

The measurement of building height in the Agricultural and Rural Residential zones is taken from the definition of building height for the R-90 and R-60 zones under the current code. Building height is measured from the average grade to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of a roof surface of a flat roof. Average grade is calculated using the average of the highest and lowest elevation along pre-development or finished level of ground (whichever is more restrictive), along the front of the building parallel to the front setback line. All references to stories have been removed.

Standard method is the only development method in the Rural zone. Under the Rural Cluster and Rural Neighborhood Cluster zones, both standard and optional method development are allowed. Under standard method, density and lot areas are not substantively changed from the current ordinance.

Density, lot dimensions, and all principle dwelling setbacks remain the same; the “sum of both sides” setback has been removed because it is entirely redundant (the side setback must be 20’, the sum of both sides must be 40’). For all three Rural Residential zones, the rear setback for accessory structures is increased from 10 feet to 15 feet. The increased setback is proposed to provide a modest increase in protection for abutting lots as accessory structures used in agriculture are exempt from height restrictions, and those used for non-agricultural purposes range in height from 35-50 feet.

Article 59-6: Optional Method Requirements

The optional methods of development contain alternative development requirements for the zones in which the method is allowed.

Changes from the current code:

- MPDU Development in Rural Residential Zones.
 1. Only the Rural Neighborhood Cluster zone allows optional method development for MPDUs.
 2. Density of development is calculated on usable area within a tract. Calculating density in this fashion is not new; however, the definition of usable area has been modified by the Planning Board. Currently,
 - “The usable area upon which the density of development is calculated shall be determined by deducting from the gross area of the tract the following:
 - All land indicated on the master plan of highways as a right-of-way with a width of 100 feet or more, and
 - All one-hundred-year flood plain areas which, in the opinion of the Planning Board, would constitute an excessively high percentage of the total area of the tract.
 - The proposed definition of usable area is “The area upon which the density of development is calculated in MPDU and Cluster Development

Optional Method projects. If more than 50% of the tract is within environmental buffers, usable area is calculated by deducting from the tract the incremental area of the environmental buffer that exceeds 50%.”

- The rationale for modifying usable area is twofold. One, removal of the requirement to deduct all land indicated on a master plan of highways as a right-of-way with a width of 100 feet or more has the potential to increase usable area for the production of affordable housing. Two, changing the requirement for environmental conditions from one that is subject to the determination of an “excessively high percentage” to one that states the percentage provides clarity to the ordinance.
- Development standards for a detached house building type are not substantially changed from the current code; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the setbacks equal those of a detached house in the abutting zone.
- Accessory structure setbacks are treated in a similar fashion; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the setbacks equal those of a detached house in the abutting zone.
- Development standards for duplex and townhouse building types are provided in the Planning Board Draft; there are no standards for these building types in the current code.
- Cluster Development in Rural Residential Zones
 1. Only the Rural Cluster zone allows optional method cluster development.
 2. Density of development is calculated on usable area within a tract. Calculating density in this fashion is not new; however, the definition of usable area has been modified by the Planning Board as noted above.
 3. Development standards for a detached house building type are not substantially changed from the current code; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the setbacks equal 30 feet.
 4. Accessory structure setbacks are treated in a similar fashion; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the setbacks equal those of a detached house in the abutting zone.

Article 59-7: General Development Requirements

This article provides general requirements for all development with respect to parking, open space, landscaping, outdoor lighting, compatibility standards, and signs. Many of the requirements are not new; however, the organization of these regulations into one section is new to the code.

Changes from the current code:

Parking:

Parking requirements will be covered as a separate topic.

Open Space:

Open space is not new to the Rural Residential zones. The RC zone requires rural open space under optional method cluster development. The RNC zone requires rural open space for both standard and optional method development. In addition, the RNC zone requires common open space for optional method MPDU development containing duplex and townhouse building types.

The definition of rural open space and the features and uses allowed and prohibited in the rural open space follow the current ordinance, with modifications regarding use names due to use consolidation and modernization.

Compatibility Standards:

Compatibility standards are intended to ensure appropriate distances, height relationships, and screening between different building types, development intensities, and uses.

Conditional uses in any building type and any use in a general building must provide screening if an abutting property is in an Agricultural, Rural Residential, or Residential zone and is vacant or improved with an agricultural or residential use. (Some use standards specifically exempt a particular use from the screening requirement.) Setback standards are increased for general buildings abutting property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use. In addition, height restrictions apply to development abutting property that is vacant or improved with an agricultural or residential use, where the proposed height is greater than the height in the abutting zone.

General Landscaping and Outdoor Lighting:

Under Division 7.5 General Landscaping and Outdoor Lighting, outdoor lighting for conditional uses is limited to a maximum 0.1 footcandle illumination level at any lot line abutting a detached house.

Article 59-8: Administration and Procedures

This article provides a summary of the review and approval authority for District Council approvals, regulatory approvals, and administrative approvals required under the zoning code.

Changes from the current code:

The majority of changes made to the administration and procedures of the code are general and not specific to a particular zone.

Changes to procedure that are zone specific include modifications in how a use is allowed within a zone. Some uses that are currently a special exception, requiring approval by the Hearing Examiner and/or the Board of Appeals, may be proposed as a limited use whereby the standards

for approval are listed in the code, and approval can be made by DPS. Some limited uses require site plan approval.

The only current special exception proposed to become a limited use in the Rural Residential zone is the Bed and Breakfast (not including the modification to Residential Care facility that allows the use based on capacity).

Several permitted uses are proposed to be a limited use in order to incorporate existing footnotes. Most of these footnotes limit or specify standards that must be met in order for the use to be approved. Thus changes from a permitted to a limited use rarely change the nature of the approval process. One exception is the Country Inn use. Currently, the Country Inn is a floating zone. It is proposed that the areas currently zoned Country Inn revert to their prior zoning. This would introduce a Country Inn use in the Rural and Rural Cluster zones. The Country Inn is proposed as a limited use retaining all non-discretionary standards that applied to the Country Inn zone. In addition, only those existing at the time of adoption of the code would be considered a limited use. All new Country Inn uses would be required to meet the limited use standards and obtain a conditional use approval.

New Definitions

- Duplex is a new term (it's only used once in the current code). The proposed draft distinguishes between uses and building types. A definition is provided for clarity.
- Golf Course, Country Club is a use that exists in the current code and, like all uses in the proposed code, it was given a definition for clarity.
- Impervious Surface is a term used in the current code that is not defined. Since it is used in the proposed code as well, a definition is provided for clarity.
- Townhouse is a term in the current code, but it is used differently in the proposed code. In the proposed code it is a building type (the most common associated use is Townhouse Living). The proposed draft distinguishes between uses and building types. A definition is provided for clarity.
- Townhouse Living is a use and, like all uses in the proposed code, it was given a definition for clarity.
- Transportation Management Plan is a term used in the current code that is not defined. Since it is used in the proposed code as well, a definition is provided for clarity.
- Two-Unit Living is a use and, like all uses in the proposed code, it was given a definition for clarity.

Modified Definitions

- Common Open Space definition was modified to better describe where it occurs (outdoors) and what it is intended for (recreational use by residents and their visitors).
- Country Inn definition was modified to remove extraneous language that didn't help describe the use and to add that it includes certain subordinate uses, which were previously identified in the Country Inn zone.
- Cultural Institution is a use in the current CR zone and has a definition; however, the proposed draft modifies the definition to be limited to privately owned/run establishments and to only include establishments such as a museum, art gallery or library (current definition also encompasses recreation and entertainment uses, which the proposed draft calls out separately).

- Educational Institution (Private) definition was modified. This language from the current code: "...which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten, or nursery school instruction, or any combination thereof, or any program of trade, technical or artistic instruction" was modified to "providing instruction or programs of learning" because it better described the types of things that a private educational institution includes, as listed in the definition.
- Green Area definition was modified, as it would apply to use standards for certain uses (Independent Living Facility for Seniors or Persons with Disabilities; Residential Care Facility; Charitable, Philanthropic Institution) and not to zones like the Industrial zones.
- Independent Living Facility for Seniors or Persons with Disabilities definition was modified slightly from the current Housing and Related Facilities for Seniors or Persons with Disabilities definition. The reference to occupancy as provided in a specific section was removed because the occupancy restrictions are now in the use standards.
- Swimming Pool (Community) definition was modified by removing the reference to the minimum number of families and clarifying the use.
- Usable Area definition was modified. In the current code, it is measured by deducting from the tract all land indicated on the master plan of highways as a right-of-way with a width of 100 feet or more and all 100-year flood plain areas which, in the opinion of the Planning Board, would constitute an excessively high percentage of the total area of the tract. The proposed code makes the measurement of usable area less subjective by only deducting area if more than 50% of the tract is within environmental buffers. If that is the case, the incremental area of the environmental buffer that exceeds 50% is deducted from the tract. It also no longer deducts the land indicated on the Master Plan of Highways.

Removed Definitions

- Camp Retreat, Non-Profit definition was removed since this use was consolidated with Campground.
- Camper definition was removed since the proposed code doesn't use this term.
- Camper Unit definition was removed since the proposed code doesn't use this term.
- Campsite definition was removed since it is not a separate use, and where used, the term has the same meaning as that found in a dictionary.
- Community Sewerage System definition was removed as it is only referenced once within the proposed code and appears to be self-explanatory.
- Community Water Supply System definition was removed as it is only referenced once within the proposed code and appears to be self-explanatory.
- Dwelling, two-family; Dwelling unit, one-family attached; Dwelling unit, one-family semidetached; Dwelling unit, townhouse definitions have been removed because the proposed code differentiates between use and building type and uses more clear terms and descriptions to differentiate between types of dwellings.
- Life Care (Continuing Care) Facility definition was removed since this use was consolidated with the Residential Care Facility.
- Nursing Home definition was removed since this use was consolidated with the Residential Care Facility.
- Paddock definition was removed because it is a commonly used term.

Residential Zones

Proposed Draft:

Article 59-2: Zoning Districts

Section 2.1.5.A.1 establishes 7 Residential Detached zones, 3 Residential Townhouse zones and 3 Residential Multi-Unit zones. Section 2.1.5.B provides the intent statement for these sets of zones, breaking down the Residential Detached zones into 3 categories: Residential Estate; Residential Low Density; and Residential Medium Density.

Changes from the current code:

- In the current code, only the townhouse zones have an intent statement. These townhouse zones are proposed to remain in the code, but will no longer be available for application. The intent statements for the Residential Detached zones, the Residential Townhouse zones, and the Residential Multi-Unit zones are all new.
- The intent statements for the Residential zones are as follows:

B. Intent Statements

1. Residential Detached Zones

a. Residential Estate (RE-2, RE-2C, RE-1)

The intent of the RE-2, RE-2C, and RE-1 zones is to provide designated areas of the County for large-lot residential uses. The predominant use is residential in a detached house. The RE-2C zone permits Optional Method Cluster Development.

b. Residential Low Density (R-200)

The intent of the R-200 zone is to provide designated areas of the County for residential uses with a minimum lot size of 20,000 square feet. The predominant use is residential in a detached house.

c. Residential Medium Density (R-90, R-60, R-40)

The intent of the R-90, R-60, and R-40 zones is to provide designated areas of the County for moderate density residential uses. In the R-90 and R-60 zones, the predominant use is residential in a detached house. In the R-40 zone, the predominant use is residential in a duplex or detached house. A limited number of other building types may be allowed in these zones under the Optional Method of Development.

2. Residential Townhouse Zones (TLD, TMD, THD)

The intent of the TLD, TMD, and THD zone is to provide designated areas of the County for residential purposes at slightly higher densities than the Residential Medium Density zones. It is also the intent of the Residential Townhouse zones to provide a buffer or transition between nonresidential or high-density residential uses and the medium- or low-density Residential zones.

3. Residential Multi -Unit Zones (R-30, R-20, R-10)

The intent of the R-30, R-20, and R-10 zones is to provide designated areas of the County for higher-density, multi-unit residential uses. The predominant use is residential in an apartment/condo building, although detached house, duplex, and townhouse building types are allowed within these zones.

Article 59-3: Uses and Use Standards

Article 59-3 is significantly different in format from the current ordinance. It contains one use table showing all the zones and uses. Next to each use in the table is a section reference for both the definition and any use standards. New, too, is the concept of the limited use. Currently, uses are either permitted by-right, “P” in the use table; or require a special exception, denoted “SE”. The proposed draft specifies uses as “P”, permitted by-right; or “L”, permitted by-right but limited by particular use standards; or “C”, permitted conditioned on approval by the Board of Appeals or the Hearing Examiner.

The following tables summarize the single use table in Section 3.1.7 of the proposed code. Each table lists all uses allowed by zone, the current use name(s), how the use is allowed, and a brief explanation for uses that have been consolidated or have changed. There are 3 tables: one for the Residential Detached zones; one for the Residential Townhouse zones; and a third table for the Residential Multi-Unit zones.

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
AGRICULTURAL				
Community Garden	Agricultural Uses	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Provides limited use standards specifying coverage and accessory structure height.
Equestrian Facility	Equestrian Facility	SE (RE-2, RE-2C, RE-1, R-200)	C (RE-2, RE-2C, RE-1, R-200)	
Farming	Agricultural Uses	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Farm is one of the agricultural uses listed under Agricultural in Sec. 59-C-9.3. In the proposed draft, Farming is limited to crop farming in the Residential Medium density zones (R-200, R-90, R-60 and R-40)
Nursery (Retail)	Retail Nursery or garden center	SE (RE-2, RE-2C, RE-1, R-200)	C (RE-2, RE-2C, RE-1, R-200)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Nursery (Wholesale)	Wholesale Nursery or greenhouse	SE (RE-2, RE-2C, RE-1, R-200)	C (RE-2, RE-2C, RE-1, R-200)	
Accessory Agricultural Uses				
Animal Husbandry	Agricultural Uses	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Current code only limits the keeping of livestock through the accessory structure used to house animal and fowl. Draft proposes limiting the size and type of animal allowed, as well as the number of animals allowed per lot, while reducing the setbacks for accessory structures and eliminating the 100 foot setback from neighboring homes and the 25 foot setback from a side lot line for R-200 and smaller lot zones.
Farm Market, On-Site	Farm Market	P (RE-2, RE-2C, RE-1, R-200)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Incorporates current standards into limited use standards (25 foot setback and expands use to other residential zones where land is being farmed. In larger lot zones, 25% of produce may be grown off-site.
Temporary Agricultural Uses				
Agricultural Vending	Agricultural Vending	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Limits same as current – 2 acre minimum lot, minimum setback of 100 from a dwelling- must be a certified agricultural producer. Expanded the use to R-40 zone.
Seasonal Outdoor Sales	Christmas Tree Sales between Dec. 5 and 25	P (RE-2, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Christmas Tree Sales are currently a permitted use except in the RE-2C zone. Provides additional standards for the broader use of Seasonal Outdoor Sales (land must be used for non-residential purposes and except of a site of religious assembly- must front on at least a primary road.

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
RESIDENTIAL				
Single-Unit Living	Dwellings, one-family detached	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
	Embassy	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Mobile Home, double-wide	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60)		
Two-Unit Living	Dwellings, one-family semi-detached	Under optional method MPDU (RE-2C, RE-1, R-200, R-90, R-60, R-40) or Cluster Development (R-90, R-60) P (R-40)	Under optional method MPDU (RE-2C, RE-1, R-200, R-90, R-60, R-40) or Cluster Development (R-90, R-60) P (R-40)	
	Dwellings, two-family detached	P (R-40)	P (R-40)	
Townhouse Living	Townhouse	Under optional method MPDU (RE-2C, RE-1, R-200, R-90, R-60, R-40) or Cluster Development (R-90, R-60)	Under optional method MPDU (RE-2C, RE-1, R-200, R-90, R-60, R-40) or Cluster Development (R-90, R-60)	
Group Living (Use Group)	(Use Group – see individual uses below)			
Independent Living Facility for Seniors or Persons with Disabilities	Housing and Related Facilities for Elderly or Handicapped Persons	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Residential Care Facility (up to 8)	Adult Foster Care Home	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Small group homes are a permitted use in these zones, per state law. A small hospice care facility (up to 8 persons) functions in a similar manner to these other residential care facilities.
	Group Home, small	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Respite Care Home	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Residential Care Facility (9 to 16)	Group Home, large	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
Residential Care Facility (over 16)	Domiciliary Care Home (more than 16 residents)	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	These uses have been consolidated with other residential care uses (e.g. nursing home). These uses will be allowed based on the number of residents.
	Hospice Care Facility	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Life Care Facility	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Nursing home	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Accessory Residential Uses				
Attached Accessory Apartment	Registered Living Unit	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	Current ZTA incorporated as limited use standards retaining ability to seek a special exception/conditional use approval if certain standards cannot be met. Registered Living Unit has been consolidated under the accessory apartment use as the recent changes to accessory apartments operate in a fashion similar to the Registered Living Unit.
	Accessory Apartment	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60)		
Detached Accessory Apartment	Accessory Apartment	P/SE (RE-2, RE-2C, RE-1)	L (RE-2, RE-2C, RE-1)	
Farm Tenant Dwelling	Farm Tenant Dwelling	P (RE-2, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Restricts Farm Tenant Dwelling to only 1 mobile home in the RE-2, RE-2C, RE-1 and R-200 zones.
	Farm Tenant Mobile Home, one only	P (RE-2, RE-2C, RE-1, R-200)		
Guest House	Guest house, as accessory use	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1)	This use has been removed from the Medium Density Residential zones. Current limits are retained (lot owner must be resident – not permitted if TDRs are severed). R-200, R-90, R-60 and R-40.
Home Health Practitioner (Low Impact)	Home Health Practitioner's office	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Separated use into low and major impact to clarify use standards and process.
Home Health Practitioner (Major Impact)	Home Health Practitioner's office	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Separated use into low and major impact to clarify use standards and process.

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Home Occupation (No Impact)	Home Occupation, no impact	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Same standards as current code (no non-resident employees – 5 visits and deliveries per week; parking limit 2 vehicles in the R-90 and R-60 zones-no retail sales).
Home Occupation (Low Impact)	Home Occupation, registered	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Same standards as current code (only one non-resident employee, 5 visits per day; maximum 20 visits per week-limited retail).
Home Occupation (Major Impact)	Home Occupation, major	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
CIVIC and INSTITUTIONAL				
Charitable, Philanthropic Institution	Charitable or Philanthropic Institution	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	
Cultural Institution	Libraries and Museums	P (RE-2, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	No change to current standards (site plan required in the RC and RNC zone if over 5,000 sq ft – max 5,000 sq ft in the CRN zone.
Family Day Care (up to 8)	Child Day Care Facility: Family Day Care Home	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	The day care for seniors use has been consolidated with the day care for children use. Family Day Care for up to 8 children is a permitted use under current zoning. Because the impact of a facility would be similar, this use is proposed as a permitted use up to 8 persons.
	Day Care Facility for up to 4 Senior Adults and Persons with Disabilities	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Group Day Care (9 to 12)	Child Day Care Facility: Group Day Care Home	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Day care for up to 12 children is permitted, subject to certain standards under current zoning regulations. Because the impact of a facility would be similar, this use is proposed as a limited use up to 12 persons.
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Day Care Center (13 to 30)	Child Day Care Facility: Child Day Care Center	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Day Care Center (over 30)	Child Day Care Facility: Child Day Care Center	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
	Day Care Facility for more than 4 Senior Adults and Person with Disabilities	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Educational Institution (Private)	Educational Institutions, private	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Conditional use not required for religious institutions
Playground, Outdoor Area (private)	Recreational facilities primarily for the use of residents		P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	An outdoor area used for outdoor recreation often containing outdoor recreation facilities such as slides, swings, trails and greenways.
Private Club, Service Organization	Private Clubs and Service Organizations	SE (RE-2, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-1, R-200, R-90, R-60, R-40)	
Public Use (except Utilities)	Publicly Owned or Publicly Operated Use	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
	Ambulances or Rescue Squads, publicly supported	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Fire Stations, publicly supported	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
	Parks and playgrounds, publicly owned			

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Religious Assembly	Churches, memorial gardens, convents, monasteries and other places of worship	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
Swimming Pool (Community)	Swimming Pools, community	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
COMMERCIAL				
Animal Boarding and Care	Animal Boarding Place	SE (RE-2, RE-2C, RE-1, R-200)	C (RE-2, RE-2C, RE-1, R-200)	Modified conditional use standards regarding noise (refers to Noise Ordinance), setback for exterior areas, hours of outdoor care.
Veterinary Office/ Hospital	Hospital, Veterinary	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60)	Modified conditional use standards regarding noise (refers to Noise Ordinance), setback for exterior areas, hours of outdoor care.
Cable Communication System	Cable Communications System	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
Media Broadcast Tower	Radio and Television Broadcasting Stations and Towers	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
Telecommunication Tower	Telecommunications Facility	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Drafts separates out the antenna from the tower facility – the antenna is permitted, while the tower remains a conditional use.
Country Inn	Country Inns	Allowed in the Country Inn zone	L (RE-2, RE-1, R-200)	Only a limited use if existing at the date of adoption of the code, otherwise a conditional use with use standards equivalent to the standards of the Country Inn zone.
Cemetery	Cemetery	SE (RE-2)	C (RE-2)	Family Burial Sites are only allowed if in existence prior to July 1991.
	Family Burial Sites	SE (RE-2, RE-2C, RE-1, R-200)		
Funeral Home, Undertaker	Funeral Parlor or Undertaking Establishment	SE (RE-2, RE-1, R-200, R-90)	C (RE-2, RE-1, R-200, R-90)	
Landscape Contractor	Landscape Contractor	SE (RE-2, RE-2C, RE-1, R-200)	C (RE-2, RE-2C, RE-1, R-200)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Bed and Breakfast	Bed-and-breakfast lodging with one or 2 guest rooms	P (RE-2, RE-2C, RE-1, R-200, R-90) SE (R-60)	L (RE-2, RE-2C, RE-1, R-200) C (R-90, R-60)	Only one Bed and Breakfast use with up to 5 guest rooms. All non-discretionary Special Exception standards are retained as Limited Use standards.
	Bed-and-breakfast lodging with 3, 4 or 5 guest rooms	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60)		
Clinic (up to 4 Medical Practitioners)	Clinic, medical or dental, for no more than 4 medical practitioners	SE (R-200, R-90, R-60)	C (R-200, R-90, R-60)	Retained specific special exception use standards. Modified minimum setback from an abutting property – where abutting non-residential setback reduced from 40 feet to 20 feet.
Office	Offices, professional, nonresident	SE (R-200, R-90, R-60)	C (R-200, R-90, R-60)	Retained specific special exception standards. Definition has been modified. Use standards regarding storage, deliveries and parking have been added.
Surface Parking for Use Allowed in the Zone	Parking of Motor Vehicles, off-street, in connection with any use permitted	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Limited use standards require parking setbacks accommodate landscaping required under Sec. 7.2.9.
Surface Parking for Commercial Uses in a Historic District	Parking of motor vehicles, off-street, in connection with commercial uses	P (RE-2, RE-2C, RE-1, R-200) SE (R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200) C (R-60, R-40)	Clarified that the use is intended only for commercial uses in an historic district.
Campground	Campgrounds	SE (RE-2C)	C (RE-2C)	
Golf Course, Country Club	Golf Course and Country Club	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Recreation and Entertainment, Outdoor (Capacity up to 1,000)	Group Catering, Picnic, and Recreation Facility	SE (RE-2C)	C (RE-2C, R-200)	Special exception standards for the 2 consolidated uses were retained for the applicable zone.
	Catering Facility Outdoors	SE (R-200)		
Recreation and Entertainment, Major (Capacity over 1,000)	Group Catering, Picnic, and Recreation Facility	SE (RE-2C)	C (RE-2C)	
Rural Antique Shop	Antique Shop	SE (RE-2, RE-1, R-200)	C (RE-2, RE-1, R-200)	
Rural Country Market	Country Market	SE (RE-2, RE-2C, RE-1, R-200)	C (RE-2, RE-2C, RE-1, R-200)	
Accessory Commercial Uses				
Amateur Radio Facility (up to 65')	Amateur Radio Facility	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	An Amateur Radio Facility is permitted with a height up to 65 feet.
Amateur Radio Facility (over 65')	Amateur Radio Facility	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Where height is greater than 65 feet, a special exception/conditional use approval is required.
Commercial Kitchen	Commercial Kitchen	P (R-90, R-60)	L (R-90, R-60)	Must be accessory to Religious Assembly or Public Use.
Antenna on existing structure	Telecommunications Facility	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Incorporates footnote 18 and standards under Section A-6.12 and A-6.14.

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
Temporary Commercial Uses				
Construction Administration or Sales Office	Temporary Construction Administration or Sales Office	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Currently allowed in all zones under certain conditions stated under Section A-6.11.
Transitory Use	Transitory Use	P/SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Incorporates footnote 38 and standards under Section A-6.22.

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
INDUSTRIAL				
Mining, Excavation	Rock or Stone Quarry	P/SE (R-200)	L (R-200)	
Railroad Track	Railroad Track	P (RE-2, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-1, R-200, R-90, R-60, R-40)	
Distribution Lines (Above Ground)	Electric Power Transmission and Distribution Lines, overhead, carrying 69,000 volts or less	P (RE-2, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Electric Power Transmission and Distribution Lines, overhead, carrying more than 69,000 volts cannot be regulated under the zoning ordinance
	Telephone and Telegraph Lines	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Distribution Lines (Below Ground)	Telephone and Telegraph Lines	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
	Electric Power Transmission and Distribution Line, underground	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Pipeline (Above Ground)	Pipelines, above ground	SE (RE-2, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-1, R-200, R-90, R-60, R-40)	
Pipeline (Below Ground)	Pipelines, underground	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
Public Utility Buildings or Structure	Public Utility Buildings and Structures	SE (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	C (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	

Proposed Use/Use Group	Current Use	Allowed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Proposed in the RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40	Notes
MISCELLANEOUS				
Noncommercial Kennel	Kennels, Noncommercial	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
Solar Collection System	Accessory Buildings, Structures and Uses	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Provides use standards specific to solar panels as an accessory use.
ACCESSORY MISCELLANEOUS USES				
Accessory Structures	Accessory Buildings, Structures and Uses	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	L (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	Incorporates restriction on size of accessory structures. Retains exemption for structures housing an agricultural use.
	Signs	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)		
Accessory Uses	Accessory Buildings, Structures, and Uses	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	P (RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40)	
	Accessory buildings or structures for housing animals or fowl	All except R-40		
Security Pavilion	Security Pavilion	P (RE-2, RE-1, R-200)	L (RE-2, RE-1, R-200)	Incorporates footnote 50 and standards under Section A-6.17.
USES REMOVED				
Current Use		Rationale for Removal		
Airstrips, in the common open space		Retained airstrips only where needed for agricultural operations.		
Boardinghouses		Removed. No active Boardinghouse special exceptions.		
Clinic , medical or dental, for 5 or more medical practitioners		Removed. Requires a petition prior to February 1989. Grandfathered if existing.		
Community Redevelopment Areas		Only those in existence prior to 1991. Grandfathered existing.		
Offices, medical practitioner, for use by other than a resident of the dwelling		Removed. If not a resident, use is treated as a Clinic up to 4 medical practitioners.		

Opportunity Housing Projects		Removed after consultation with DHCA/HOC.
Parking of Motor Vehicles, Off-street, in connection with commercial use		Parking as the primary use of a parcel of land in the Rural zone is not compatible with the rural character of the area. Surface Parking for Commercial Uses in a Historic District has been retained.
Swimming Pool, private		A Swimming Pool, private is a pool owned by not more than 10 families and used by only member families and their guests. Footnote 16 adds that a Swimming Pool, private is “for use of the property owner and nonpaying guests only”.

Changes from the current code:

- Use Consolidation and Simplification
 1. **Farm Tenant Dwelling.**
 - The proposed Farm Tenant Dwelling use is a consolidation of Farm Tenant Dwelling and Farm Tenant Mobile Home, only.
 - A Farm Tenant Dwelling is permitted in all of the Residential Detached zones except for the RE-2C zone. Only one Farm Tenant Mobile Home is permitted in the RE-2, RE-2C, RE-1 and R-200 zones. The proposed code retains any non-discretionary special exception standards as limited use standards under the consolidated use.
 2. **Residential Care Facility.**
 - The proposed code recommends consolidating 9 residential care-type uses into one use, Residential Care Facility, which is differentiated by the capacity of the facility.
 - Residential care homes that care for up to 8 persons are a permitted use in almost every zone. Currently, this includes Adult Foster Care Home, Respite Care Home, and Group Home, Small (up to 8 residents).
 - A Group Home, Large (9-16 residents) requires a special exception in the Residential detached zones.
 - And larger residential care facilities require a special exception in the Residential Detached zones.
 - In the proposed code, Residential Care Facility (up to 8) is a permitted use in the Residential Detached zone. Residential Care Facility (9-16 persons) and Residential Care Facility (over 16 persons) are proposed as conditional uses in these zones.
 3. **Day Care Facility.**
 - Adult and child day care uses have been consolidated under a broader day care use without differentiating the use based on recipient age.
 - Currently, the use Day Care Facility for more than four Senior Adults and Persons with Disabilities allows for up to 40 persons.
 - The proposed code distinguishes the Day Care use based on capacity.
 - Family Day Care allows up to 8 persons and is permitted in all Residential Detached zones.

- Group Day Care Home is for 9-12 persons. This use is permitted in the RE-2, RE-2C, RE-1, and R-200 zones. It is a special exception in the R-90, R-60 and R-40 zones. The proposed use, Group Day Care, is allowed in the same fashion for these zones.
 - Day Care Center, currently a special exception, has been split into two uses based on size; Day Care Center (13-30 persons) and Day Care Center (over 30 persons). Both are proposed as a conditional use in the Residential Detached zones.
- Modified Conditional Use Standards

1. **Animal Boarding and Care**

- Some of the current special exception standards for animal boarding in a rural or residential zone have been modified.
 - ~~On weekdays, The sound at the nearest receiving property line cannot must not exceed 60 dBA. between the hours of 8 a.m. to 6 p.m. and 50 dBA between the hours of 6 p.m. to 8 a.m. On Saturdays, Sundays, and federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. to 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.~~
 - For all buildings in which animals will be present contained, ~~maximum expected interior sound levels emanating from the interior of the building must be reduced to 40 dBA (A-weighted decibels) outside satisfy Chapter 31B as measured at ten feet from the structure at the property line.~~
 - Propose to combine into one standard, “The sound at the nearest property line must not exceed the maximum allowable noise levels as specified under Chapter 31B.”
 - No animals may be outdoors between 6 p.m. and 8 a.m. (This corresponds to the definition of weekday, nighttime hours under Chapter 31B).
 - All buildings and accessory structures must be set back from any property line a minimum of 50 feet from any lot line.

2. **Veterinary Office/Hospital**

- On weekdays, the sound at the nearest receiving property line cannot must not exceed 60 dBA between the hours of 8 a.m. and 6 p.m. and 50 dBA between the hours of 6 p.m. and 8 a.m. On Saturdays, Sundays, and Federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. and 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property

line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.

- For all buildings in which animals will be contained, maximum expected sound levels emanating from the interior of the building must be reduced to 40 dBA (A-weighted decibels) and outside satisfy Chapter 31B as measured at ten feet from the structure at the property line.
 - Propose to combine into one standard, “The sound at the nearest property line must not exceed the maximum allowable noise level as specified under Chapter 31B.”
 - No animals may be outdoors between 6 p.m. and 8 a.m. (This corresponds to the definition of weekday, nighttime hours under Chapter 31B).
 - All buildings and accessory structures must be set back from any property line a minimum of 50 feet.
 - Exterior areas used to exercise, walk or keep animals must be set back from any property line a minimum of 75 feet from any lot line and screened from adjacent residential properties.
- New Uses
 1. **Community Garden.**
 - A Community Garden is the cultivation of land by a group of people to grow products for personal use or distribution; not for sale on-site. The limited use standards restrict gross floor area of all structures to 10% of the lot or parcel, accessory structure height is limited to 12 feet, and only manual or walk-behind mechanical equipment and practices commonly used in residential gardening are allowed.
 2. **Seasonal Outdoor Sales.**
 - Seasonal Outdoor Sales is the temporary sale of seasonal farm products such as pumpkins and evergreen trees. The limited use standards require a temporary use permit from DPS, the sales site cannot be used for residential purposes, and if on the site of a Religious Assembly use, the site must front on and have access to a road built to primary or higher standards.
 3. **Playground, Outdoor Area (Private).**
 - This is a new use to accommodate active and passive recreational uses in common open space, where common open space is only required for certain building types and development methods.
 4. **Solar Collection System.**
 - A Solar Collection System is allowed only as an accessory use; free-standing systems are limited to the production of 120% of the on-site energy consumption.

- Change from Special Exception Use to a Limited Use
 1. **Bed and Breakfast**
 - All non-discretionary special exceptions standards have been retained as limited use standards.
 2. **Day Care for more than 4 Senior Adults or Persons with Disabilities**
 - Adult and child day care uses have been consolidated under a broader day care use without differentiating the use based on recipient age.
 - By consolidating with child day care, this use will be regulated based on the number of persons receiving care.

Article 59-4: Euclidean Zone Requirements: General and Standard Method

This article provides general information regarding building types, measurements and exceptions, development requirements for standard method development by zone, and regulations for overlay zones.

Changes from the current code:

Section 4.1.3 Building Types is an entirely new section establishing building types and describing their basic attributes. Section 4.1.4 Building Types Allowed by Zone is also an entirely new section establishing which building types are allowed in each zone. Standards for the general building are entirely new, reflecting the need to address the development of uses other than residential living that are currently allowed in Residential zones. Some building types are only allowed under the optional method of development – either MPDU and/or Cluster.

Section 4.1.5 Measurement and Exceptions replaces several definitions from Section 59-A-2 and Article 59-B. This section is organized to parallel the development standard tables for each of the zones:

- A. Site;
- B. Lot and Density;
- C. Placement;
- D. Height; and
- E. Form.

Several terms not defined under the current code are defined in this section. Site is defined as “an area of land including all existing and proposed lots and parcels in one application, except proposed and existing dedications and rights-of-way.” Lot has been redefined from “A parcel of land occupied or to be occupied by a building and its accessory buildings or by group dwellings and their accessory buildings, together with such open spaces as are required under the provisions of this chapter, having at least the minimum area required by this chapter for a lot in the zone in which such lot is situated and having its principal frontage on a public street or public way” to “A contiguous area of land that is described by a plat recorded in the land records for which a building permit can be issued.” This change removes unnecessary language about development standards that are addressed by the standards of the zone.

A new section defining building setbacks and their measurement has been added. Corner lots remain defined as they currently are; the proposed language for the measurement of setbacks on corner lots is similar, but the proposed addressing language for corner lots is new.

Under Mechanical Equipment and Utility Line Encroachments, a permanent rainwater collection or harvesting systems may projects a maximum of 3 feet into any side street or side or rear setback.

The measurement of building height for all Residential zones is taken from the definition of building height for the R-90 and R-60 zones under the current code. Building height is measured from the average grade to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of a roof surface of a flat roof. Average grade is calculated using the average of the highest and lowest elevation along pre-development or finished level of ground (whichever is more restrictive), along the front of the building parallel to the front setback line — regardless of how far the building is set back from the street. The proposed code discourages terracing as it does not allow for a building's height to be increased by the height of the terrace. The Department of Permitting Services and other stakeholders noted that the many variations in how we currently measure height make it difficult to apply consistently, and thought these changes would make measuring height easier and ensure better consistency of measurement while maintaining certain safeguards for the Agricultural, Rural, and Residential zones. All references to stories have been removed.

Density, lot dimensions, and all principle dwelling setbacks remain the same for the Residential Detached zones. Maximum coverage for accessory structures in the rear yard has been removed. The total lot coverage, setbacks and placement of accessory structures behind the rear building line, and the requirement that an accessory structure be subordinate to the principal dwelling all remain unchanged. In addition, the maximum accessory structure height in the R-200 zones has been decreased from 50' to 35'.

The development requirements for the townhouse zones are all new, as these Euclidean townhouse zones are new to the ordinance.

The development requirements for the multi-unit zones have been simplified. Density; lot area per unit and per site; minimum lot width; setback from the street; side lot line and rear lot line setbacks; building height; coverage; and open space standards have all been retained. Setback compatibility standards when abutting an agricultural, rural residential, or residential zone have been added. Minimum lot width for corner lots or multiple group-dwellings, setback from the street center line, sum of side lot line setbacks, and minimum required distance between buildings have been removed.

Article 59-6: Optional Method Requirements

The optional methods of development contain alternative development requirements for the zones in which the method is allowed.

Changes from the current code:

- MPDU Development in Residential Zones
 1. Currently, MPDU optional method development is allowed in all but the RE-2 zone. This remains the case in the proposed code.
 2. Density limits are identical in all cases, as are the allowed building types.
 3. Density of development is calculated on usable area within a tract. Calculating density in this fashion is not new; however, the definition of usable area has been modified by the Planning Board. Currently,
 - “The usable area upon which the density of development is calculated shall be determined by deducting from the gross area of the tract the following:
 - All land indicated on the master plan of highways as a right-of-way with a width of 100 feet or more, and
 - All one-hundred-year flood plain areas which, in the opinion of the planning board, would constitute an excessively high percentage of the total area of the tract.”
 - The proposed definition of usable area is “The area upon which the density of development is calculated in MPDU and Cluster Development Optional Method projects. If more than 50% of the tract is within environmental buffers, usable area is calculated by deducting from the tract the incremental area of the environmental buffer that exceeds 50%.”
 - The rationale for modifying usable area is twofold. One, removal of the requirement to deduct all land indicated on a master plan of highways as a right-of-way with a width of 100 feet or more has the potential to increase usable area for the production of affordable housing. Two, changing the requirement for environmental conditions from one that is subject to the determination of an “excessively high percentage” to one that states the percentage provides clarity to the ordinance; the amount of usable area may be decreased based on environmental conditions.
 4. In the Residential Detached zones, removed the different lot size and setback requirements for MPDU units, which are captured in footnote 7. Instead, the proposed draft recommends slight reductions in lot sizes for all units under MPDU optional method development. These modifications have been proposed to provide more flexibility in design and placement while also ensuring adequate buffering.
 5. Side and rear setbacks within the development are determined at site plan; however, where abutting a property not included in the application, then the setbacks equal those of a detached house in the abutting zone (rather than increasing the setback by 2 feet for every foot in height over 35 feet, height is capped at 40 feet.)
 6. Accessory structure setbacks are treated in a fashion similar to principle dwelling setbacks; side and rear setbacks are determined at site plan except, where abutting

a property not included in the application, then the setbacks equal that of a detached house in the abutting zone.

7. Maximum coverage standards provided for each zone are new. Under the optional method the maximum lot coverage is greater than that allowed under the standard method. This modification is compatible with the reduced lot size requirement providing more flexibility in design and placement while also ensuring adequate buildable area.
 8. Common open space is required for all MPDU development in a Residential Detached zone. Currently, the amount of “green area” required is a fixed number of square feet per duplex or townhouse unit. The proposed draft requires a percentage of usable area be provided as common open space. This modification is proposed to provide more flexibility in design and provide an outdoor area that better fits the scale of development.
 9. Density and open space requirements for the new Euclidean Townhouse zones are based on the density and “green area” requirements under optional method MPDU development in the comparable R-T zones.
 10. For the Multi-unit zones, density and open space requirements are the same as those under the current code.
 11. Development standards for setbacks and accessory structures are provided for the Townhouse and Multi-unit zones. The current code does not specify these standards.
- Cluster Development in Residential Zones
 1. Cluster optional method development is allowed in the RE-2C, RE-1, R-200, R-90, and R-60 zones.
 2. Minimum site area remains unchanged; however, a specification is provided that allows the Planning Board to approve cluster development on a smaller site if cluster development is recommended for the site in a master plan (currently allowed under R-90 and R-60), or if the Board finds the smaller site would be more suitable for environmental reasons (currently allowed under RE-2C and RE-1), which is more broadly written than the existing language.
 3. Density limits are identical in all cases, as are the allowed building types.
 4. Density of development is calculated on usable area within a tract. Calculating density in this fashion is not new; however, the definition of usable area has been modified by the Planning Board as noted above.
 5. Minimum lot sizes are reduced, except for a detached house in the R-90 zone. Minimum lot width for a townhouse building type has been reduced and an open space requirement has been added, since a specific amount is not currently

required. These modifications are proposed to encourage smaller lots, more clustering, and greater preservation of open space.

6. Setback from a public street has been decreased by 5' for RE-2C and RE-1 and increased by 5' in the R-60.
7. Front setback from a private street or open space is new, as is side street setback.
8. Side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the side setback equals that of a detached house in the abutting zone. Rear setbacks are unchanged.
9. Accessory structure setbacks are treated in a similar fashion; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the side setback equals that of a detached house in the abutting zone. Rear setbacks are unchanged.

Article 59-7: General Development Requirements

This article provides general requirements for all development with respect to parking, open space, landscaping, outdoor lighting, compatibility standards, and signs. Many of the requirements are not new; however, the organization of these regulations into one section is new to the code.

Changes from the current code:

Parking:

Parking requirements will be covered as a separate topic.

Open Space:

Open space is not new to the Residential zones. The townhouse zones, multi-family zones and optional method MPDU development all require some amount of "green area". Under the proposed code, "green area" has been renamed "common outdoor area" to better illustrate the purpose of the space. Open space requirements for the new Euclidean townhouse zones are based on the "green area" requirements for the existing R-T zones, while the open space requirements for the multi-unit zones remains unchanged. In addition, all optional method MPDU and cluster development requires a minimum amount of usable area to be provided as common open space by zone, regardless of building type.

Compatibility Standards:

Compatibility standards are intended to ensure appropriate distances, height relationships, and screening between different building types, development intensities, and uses.

Conditional uses in any building type and any use in a general building must provide screening if an abutting property is in an Agricultural, Rural Residential, or Residential zone and is vacant or improved with an agricultural or residential use. (Some use standards specifically exempt a particular use from the screening requirement). Setback standards are increased for general buildings abutting property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or

residential use. In addition, height restrictions apply to development abutting property that is vacant or improved with an agricultural or residential use, where the proposed height is greater than the height in the abutting zone.

General Landscaping and Outdoor Lighting:

Under Division 7.5 General Landscaping and Outdoor Lighting, outdoor lighting for conditional uses is limited to a maximum 0.1 footcandle illumination level at any lot line abutting a detached house.

Article 59-8: Administration and Procedures

This article provides a summary of the review and approval authority for District Council approvals, regulatory approvals, and administrative approvals required under the zoning code.

Changes from the current code:

The majority of changes made to the administration and procedures of the code are general and not specific to a particular zone.

Changes to procedure that are zone specific include modifications in how a use is allowed within a zone. Some uses that are currently a special exception, requiring approval by the Hearing Examiner and/or the Board of Appeals, may be proposed as a limited use whereby the standards for approval are listed in the code, and approval can be made by DPS. Some limited uses require site plan approval.

Only 2 current special exceptions are proposed to become a permitted or limited use in the Residential zones:

- *Bed and Breakfast.* The draft proposed consolidating Bed and Breakfast (up to 2 rooms) with Bed and Breakfast (3, 4, or 5 rooms). The new use would allow up to 5 rooms, and in the RE-2, RE-2C, RE-1 and R-200 zones it would be a limited use, with all non-discretionary special exception standards retained as limited use standards.
- *Day Care for More Than 4 Senior Adults or Persons with Disabilities.* Adult and child day care uses have been consolidated under a broader day care use without differentiating the use based on recipient age. Family Day Care for up to 8 children is a permitted use under current zoning. Because the impact of a facility would be similar, Day Care for More Than 4 Senior Adults or Persons with Disabilities is proposed as a permitted use up to 8 persons. Currently, Day Care for up to 12 children is allowed subject to certain standards under current zoning regulations. Because the impact of a facility would be similar, Day Care for More Than 4 Senior Adults or Persons with Disabilities is proposed as a limited use for 9 to 12 persons.

Several permitted uses are proposed to be a limited use in order to incorporate existing footnotes. Most of these footnotes limit or specify standards that must be met in order for the use to be approved. Thus changes from a permitted to a limited use rarely change the nature of the approval process. One exception is the Country Inn use. Currently, the Country Inn is a floating zone. It is proposed that the areas currently zoned Country Inn revert to their prior zoning. This would introduce a Country Inn use in the RE-2, RE-1, and R-200 zones. The Country Inn is proposed as a limited use retaining all non-discretionary standards that applied to the Country Inn zone. In addition, only those existing at the time of adoption of the code would be

considered a limited use. All new Country Inn uses would be required to meet the limited use standards and obtain a conditional use approval.

Parking Standards

- Parking is the use group that includes Structured Parking, Surface Parking for Use Allowed in the Zone, and Surface Parking for Commercial Uses in a Historic District. This use group was given a definition for clarity.
- Playground, Outdoor Area (Private) is a use and, like all uses in the proposed code, it was given a definition for clarity.
- Special Event Parking is a type of parking currently allowed in some Residential zones. For clarity, it was pulled out as a separate use and, like all uses in the proposed code, it was given a definition.
- Surface Parking for Use Allowed in the Zone is a consolidation of a few uses and, like all uses in the proposed code, it was given a definition for clarity.
- Urban Farming is a use and, like all uses in the proposed code, it was given a definition for clarity.

Modified Definitions

- Catering Facility, Outdoors was modified to provide a clearer definition, and the following language was moved to the use standards for Recreation and Entertainment Facility, Outdoors in the R-200 zone (which is where this activity is currently allowed): “all catering parties are held under pavilions, or in the open, and may include various recreational activities.”
- Commercial Kitchen definition was modified to specify the uses with which it must be associated (which is a footnote in the current code).
- Group Picnic, Catering, and Recreation Facility was consolidated into the Recreation and Entertainment Facility use and is called out in the use standards for the RE-2C zone as it is the only Recreation and Entertainment Facility use allowed in that zone (in keeping with the current code). The definition was simplified by removing overly descriptive language.
- Hospital definition was modified to provide clarity by adding a list of accessory facilities that are included in the use. In addition, the definition was modernized by removing this part of the definition: “obstetrical, psychological, or chemical dependency disorders including general hospitals and institutions in which service is limited to special fields.” The more general definition covers all of these items without the need to specifically list them.
- Infill Development definition was modified. The references to “after April 28, 2009” and “existing on April 28, 2009” are no longer needed, as any building or construction occurring under the proposed code will be after that date. In addition, because stories are not used in the proposed code when measuring height, the following language was removed: “the construction proposed is more than one story, excluding any basement if the average elevation of the finished grade is higher along the front of the dwelling than the average elevation along the rear of the dwelling.”
- Medical Practitioner definition was modified to include physician’s assistant or nurse practitioner.

- Multi-Unit Living definition was modified from the current definition of dwelling unit, multiple family to incorporate the concept of building type and how it differentiates from use.
- Office is a consolidation of more than 10 uses and therefore the definition was modified from the current office definition to encompass all the different types of office uses.
- Overlay Zone definition was modified to be more clear.

Removed Definitions

- Boardinghouse definition was removed since this use is not in the proposed code.
- Chancery definition was removed as it was consolidated into the more broad Office use.
- Embassy definition was removed as it was consolidated into Single-Unit Living use.
- Home Occupation Residential Parking Area definition was removed because this term isn't used in the proposed code.
- Home Occupation, Visit definition was removed as a visit to a home occupation is no different than a visit to another establishment — self-explanatory.
- Life Sciences Center definition has been removed because this use is no longer allowed in the R-200 zone (the use Life Sciences, which is in the LSC zone, is still in the proposed code).
- Office, Professional, Nonresidential definition was removed as it was consolidated into the more broad Office use. In the Residential Detached zones, the reference to having to be in an existing detached house was moved to the use standards.
- Sending Area definition was removed because this term isn't used in the proposed code.