



## CRU Task Force AGENDA

Wednesday, July 27, 2022, at 6 PM

Members of the public may participate by telephone conference call via Teams.

**Dial 1-872-239-8359 and enter Conference ID 861 211 873#**

Please mute your device until the Chair opens the floor for public comments.

The public may view meetings live at <https://www.kentcounty.com/youtube-live>.

Archived videos may be viewed on the [Kent County Government YouTube channel](#).

**MISSION STATEMENT:** *We value our land, our families, our neighbors, our friends, and our diverse, rural community. Kent County's history, its location, and the land itself enrich our lives and our lifestyles every day. The CRU Task Force's mission is to preserve the best of Kent County, Maryland, including prime farmland, local culture, and its small businesses, while supporting opportunities for expanding into new economies, via innovative and thoughtful changes to the County's zoning regulations that simplify regulatory processes and add new uses.*

### I. **Welcome and Roll Call**

Al Nickerson	Buck Nickerson	Joe Hickman	Ray Strong
Bill Norris	Chikki Shajwani	Kim Kohl	Sam Shoge
Bill Sutton	Cindy Genter	Pat Langenfelder	Tom Mason
Bryan Greenwood	Jim Saunders	Paul Ruge	Tyler Brown

II. **Approval of the Summary** for the Task Force Meeting on May 25, 2022

III. **Purpose:** Fair and Open Discussion on Proposed Text Amendments

**Outcome:** Staff to summarize Task Force positions in Meeting Summary

## Ground Rules

- A. Everyone is encouraged to share ideas openly and freely.
- B. There are no right or wrong inputs for discussion purposes.

## Norms

- Participants speak 'through the chair'. This means raising your hand if you want to speak and waiting for the Chair to call on you.
- Don't interrupt other people.
- Don't talk/debate amongst yourselves.
- Respect other's views.
- Keep contributions short and to the point.
- Start and end on time.
- If online or on the phone: have your video ON and mute ON. Wait for the Chair to call your name before you unmute.

**Note: It is requested that Section VII be taken first, so the consultant may present first.**

### IV. Old Business from March 30

- A. Presentation of proposed new graphics for individual zoning districts
- B. **Discussion to revisit the topic of consolidation of limited zoning districts –**  
*The Task Force requested that this item be taken up again at its July meeting.*
- C. Discussion of Task Force Schedule

### V. Old Business from May 25

- A. Review of Request to amend the Forest Conservation provisions of the Land Use Ordinance (Article VI. Special Provisions, Section 8. Forest Conservation, beginning on page 373 of the current Land Use Ordinance under Part 8 [here](#))
- B. Review of Request to revise Marine zoning district provisions (Article V. District Regulations, Section 13. Marine District, beginning on page 219 under Part 4 and Article VII. Special Exceptions, beginning on page 413 under Part 9 [here](#))
- C. Review of Request to the parking regulations for parking maximums instead of parking minimums (Article VI. Special Provisions, Section 1. Parking and Loading Requirements, beginning on page 309 under Part 6 [here](#))

- D. Review of Request to amend setbacks in the Village District for agricultural uses on Village zoned land (Article V. District Regulations, Section 7. Village District, beginning on page 109 under Part 3 [here](#))
- E. Review of Request to amend setbacks in the Village District for accessory structures in the front yard to be closer to the street than the house and to allow for small farms within Village District (Article V. District Regulations, Section 7. Village District, beginning on page 109 under Part 3 [here](#))

VI. **New Business (items from the Agenda of May 25, 2022, which were not discussed)**

- A. Request to review the concept and permitted use of an enclave in AZD as it relates to the 10% rule (Article V. District Regulations, Section 1. Agriculture Zoning District, beginning on page 18 under Part 1 [here](#))
- B. Review of Request to consider a general noise ordinance in the zoning code

VII. **New Business**

- A. Review of proposed Sign Code regulations by ZoneCo
- B. Review of proposed Nonconformities Chapter by ZoneCo

VIII. **Task Force Comments**

IX. **Adjournment**

*Please note a quorum of the Board of County Commissioners  
may be present at any meeting.*

## Special Announcement Regarding Meeting Attendance

The following options are provided for the public to participate in the Task Force meeting.

Since seating is limited, members of the public who would like to **attend the meeting in-person** are encouraged to register in advance by either email at [compzone@kentgov.org](mailto:compzone@kentgov.org), or by leaving a voice message at 410-778-7423, ext. 9 (voice/relay). The physical location is in the County Commissioners' Hearing Room at 400 High Street in Chestertown, MD.

Members of the public who wish to **participate via video in the Teams meeting** also need to register in advance by texting their name, street address for the record, and email address to 410-708-4063. Although not required, members of the public who wish to participate in the Teams meeting are encouraged to download the free app for Microsoft Teams, in order to improve their experience of the presentation. Prior to the meeting, a link to join Teams will be emailed to those who registered.

Members of the public may **call in with comments by phone** when the Chair opens the floor for comments. To participate via phone only (without video) via Microsoft Teams:

Call **1-872-239-8359** then enter Conference ID: **861 211 873#**

Please mute your phone / computer / or other electronic device until the Chair opens the floor in order to invite the public's comments.

**To listen to the meeting only**, the meeting will be livestreamed on the County website at: <https://www.kentcounty.com/youtube-live>

**To submit written comments in advance of the meeting**, please email your comments to [compzone@kentgov.org](mailto:compzone@kentgov.org) or mail your comments to:

Bill Mackey, AICP, Director, Department of Planning, Housing, and Zoning  
400 High Street, Suite 130; Chestertown, MD 21620

**To review agendas, adopted summary minutes, and all meeting materials** online, please visit <https://www.kentcounty.com/compzone>. To receive printed copies of materials or review the materials on file in person, please contact Bill Mackey at 410-778-7423 ext. 9 (voice/relay), or at the email address above, or in writing at the address above. Please allow time for USPS delivery, if corresponding by post.

If you require communication assistance, please call (410) 778-7423 (voice/relay) or visit Maryland Relay at [www.mdrelay.org](http://www.mdrelay.org), or email [compzone@kentgov.org](mailto:compzone@kentgov.org).

Thank you for your participation!



**To:** Comprehensive Rezoning Update Task Force  
**From:** Bill Mackey, Director DPHZ  
**Date:** July 20, 2022  
**Subject:** Proposed sign code with changes by ZoneCo

## Memorandum

**Note:** This staff report accompanied the advance copy of the sign code provided to the Task Force on November 15, 2021. The same version of the sign code is attached with new changes indicated in red by ZoneCo. The staff report for the advance copy is below. Additions are in bold blue text.

### Background

Currently, the Land Use Ordinance contains sign regulations that are not content neutral. For example, there are specific categories for real estate signs, institutional signs, construction signs, etc. Pursuant to the Supreme Court of the United States case *Reed v. Town of Gilbert*, the Court invalidated sign codes that utilize the content of signage to regulate signs. Jurisdictions across the United States are now undertaking changes to create content-neutral codes, which will change how signage regulations work in a major way.

Many local sign codes across the U.S. include definitions or standards that use references to sign messages or purposes to clarify applicability. While in most cases the local government has no intent to censor protected speech, these “content-based” regulations are not easy to defend against Constitutional challenges. The U.S. Supreme Court’s 2015 decision in *Reed v. Town of Gilbert* re-emphasized the importance of content neutrality in sign regulation and offered some clarity on the types of sign regulations that, if challenged, will likely trigger the highest level of judicial scrutiny (<https://www.planning.org/knowledgebase/signregulation/>).

This is one of the areas where a national consultant who can provide best practices is especially helpful. The ZoneCo team is led by attorney Sean Suder who has put together a proposed new package for signage.

### Request

With a new paradigm approach, the proposed new signage regulations do not track exactly with current regulations. Staff has annotated the attached to indicate where changes are occurring. Gray highlighting indicates new material added. As a next step, the amount of signage permitted overall may be reviewed. **With this version of the materials, there are suggested changes included by ZoneCo in tracked changes (additions appear in red text). ZoneCo will present changes and the sign code approach at the meeting.**

### Review

The 2018 Comprehensive Plan includes signage as a way to support economic development by providing appropriate signage that enhances the streetscape (p. 19) and enhance neighborhood character (p. 31), noting that the County will continue to prohibit new billboards (p. 99). To be effective, signage regulations in the Land Use Ordinance should be adjusted to meet contemporary best practices, while maintaining aspects that address and preserve the unique character of Kent County. The Comprehensive Rezoning Update is also an ideal time to consider expanding the amount of signage allowed, so local businesses can effectively advertise their presence, attract new customers, and continue to grow and expand over time.

Graphics and matrices are new ways to present regulations. They can make it easier to compare what is allowed across districts. This will be advantageous when adjusting what is allowed.

Please note that the current iteration of the draft proposal includes the existing, allowable signage areas. Signage categories are presented in order to create a more content-neutral approach to the provisions.

**The ZoneCo Team will present the sign chapter at the meeting on Wednesday, July 27, 2022, at 6 PM.**

#### **Recommendation**

Staff recommends that the Task Force consider recommending the new format and approach for the sign regulations in the Land Use Ordinance. A discussion of signage size will follow at a subsequent meeting.

#### **Attachment**

- DRAFT proposed sign code with existing signage allowances **and tracked changes text by ZoneCo.**

c: file

Chapter XX. Signs  
**Purpose and Intent**

Sec. XX-1. **Purpose and Intent**

The purpose of this section is to establish minimum regulations for the design and display of signs. The regulations and standards provide sufficient identification of property while preserving the overall attractiveness of the County. The intent of the County enacting this chapter is as follows:

- (1) To encourage the effective use of signs;
- (2) To maintain and enhance the aesthetic environment of the County while avoiding visual clutter;
- (3) To promote the use of signs to identify buildings and geographic areas;
- (4) To improve pedestrian and vehicle traffic safety; and
- (5) To promote the compatibility of signs with the surrounding land uses.

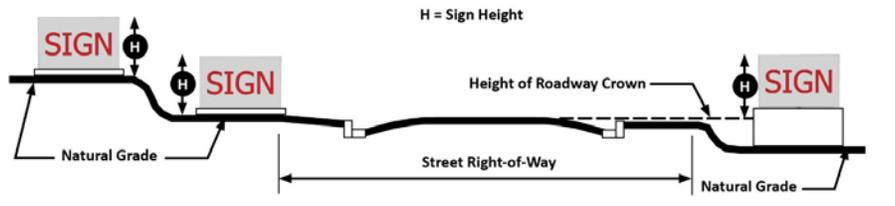
Commented [WM1]: From exiting Code – Section 2.1 excluding the sentence: "Incentives are provided for design excellence."

Sec. XX-2. **Applicability**

The provisions of this chapter shall apply to all signs erected within the County that are directed to be viewed from the outdoors. All erection, construction, reconstruction, enlargement, moving, altering, or converting of signs in the County shall be performed in compliance with the requirements of this chapter.

Sec. XX-3. **How to Measure Sign Dimensions**

- (1) Sign Height Measurement



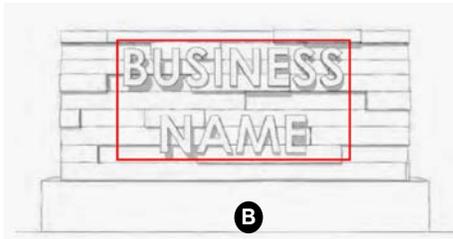
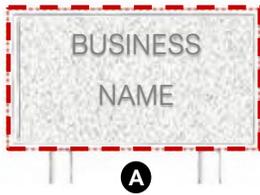
Commented [WM2]: This approach allows for the automatic adjustment of height based on topography. A survey will be needed.

- A. The height of a sign shall be measured from the higher of (1) the natural grade immediately adjacent to or directly beneath the sign base, which shall not be raised so as to create additional sign height, or (2) the height of the roadway crown of the adjacent street which the sign faces, whichever is higher, to the highest point of the sign structure, including the bracket, supports, and any sign face surrounds. The above diagram illustrates sign height measurement.

- (2) Sign Area Measurement

Chapter XX. Signs  
Sign Location

- A. For signs ~~on-mounted on a freestanding background or projecting from a building~~, the entire area of the framework or background of the sign is calculated as the sign area, including any material or color forming the sign face or background used to differentiate the sign from the sign structure against which it is placed. (See diagram "A" below).
- B. For signs consisting of freestanding letters or features attached to a wall ~~or monument~~, the sign area is calculated as the total area of an imaginary rectangle that contains all letters or features of the sign. (See diagram "B" below).
- C. Sign area does not include any supporting framework or bracing unless such framework or bracing is part of the message or sign face. (See diagram "A" below).



- D. When two sign faces are placed back-to-back, so that both faces cannot be viewed from any one point at the same time and part of the same sign structure and are not more than 24 inches at ~~its- their~~ furthest distance apart, the sign area shall be computed ~~by-as~~ the ~~measurement-area~~ of one of the faces.

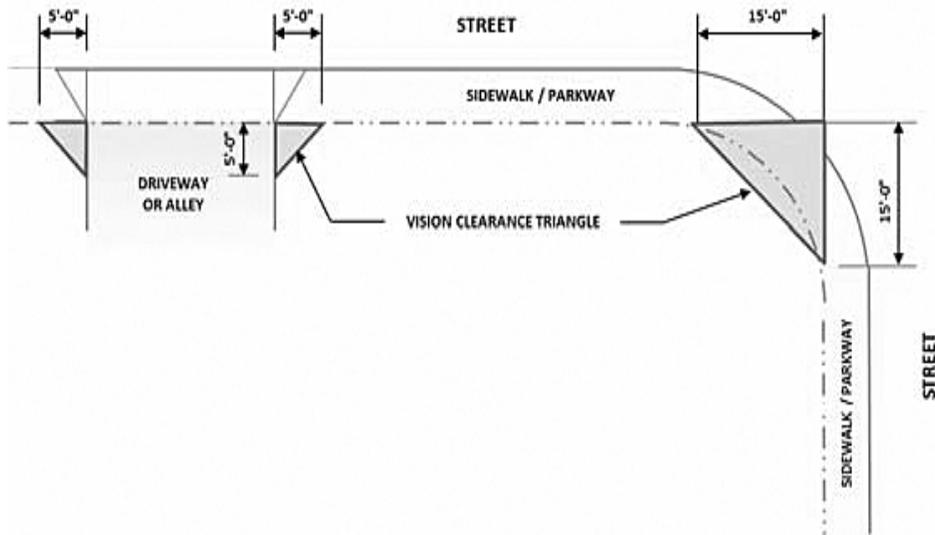
Sec. XX-4. Sign Location

- (1) Signs shall not be situated so that they interfere with the movement or visibility for pedestrians, cyclists, ~~or motorists~~, or ~~in-so that they any-way~~ obstructs views of traffic signals ~~and-or~~ other traffic devices.
- (2) Signs and their supporting structures shall not interfere with public utility equipment or communication lines/equipment that are either above or below the grade.
- (3) ~~At a minimum, s~~Signs shall not be located within the vision clearance triangle, ~~except that. The vision clearance triangle means the triangular area adjacent to the intersection of any street established by measuring a distance of 15 feet from the point of intersection of two streets along the right-of-way of each of the intersecting streets, or a distance of 5 feet from the point of intersection of a street and a driveway and connecting the ends of each measure distance to assure adequate visibility sight lines for vehicular traffic approaching the intersection. Exception: w~~Wall signs and any other signs that are placed flat against a building wall are not subject to this requirement. ~~The vision clearance triangle is described in Article XX Section XX.~~

Commented [WM3]: This approach to monument signage would allow for large ground-mounted signs in most districts, if individual letters are counted separately for sign area, as opposed to all text being counted together, or each line counted separately.

Commented [NN4]: This language was changed from Bill Mackey's version to reflect the 6/24/2022 email, which indicated that "We discussed not calculating sign area for each individual letter but for the composite area of the letters." Furthermore, the graphic "B" below was updated to show such change.

Commented [NN5]: Vision Clearance Triangle should be defined elsewhere in the code.



Commented [NN6]: Remove. Vision Clearance Triangle should be defined and illustrated elsewhere in the code

Chapter XX. Signs  
**Sign Maintenance**

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**Sec. XX-5. Sign Maintenance**

All signs shall be maintained in safe and good structural condition, in compliance with all applicable building and electrical codes, and in conformance with this chapter at all times. Such maintenance includes replacement of all defective bulbs, parts, materials, painting, repainting, cleaning, and other acts required for maintenance of erected signs. If any sign does not comply with the above maintenance and repair standards, the County shall require its removal in accordance with Article XX.

**Sec. XX-6. Removal of Unsafe, Unlawful, or Abandoned Signs**

- (1) Upon written notice by the Zoning Administrator, the owner, person, or firm maintaining a sign shall remove the sign when it becomes unsafe, is in danger of falling, or it is determined by the County to be a nuisance in accordance with County Code Art. XX, or it is deemed unsafe by the County or it is unlawfully erected in violation of any of the provisions of this chapter.
- (2) The County may remove or cause to be removed the sign at the expense of the property owner or authorized agent in the event of the owner of the person or firm maintaining the sign has not complied with the terms of the notice within 30 days of the date of the notice. In the event of immediate danger, the County may remove the sign immediately.

**Sec. XX-7. Permits**

Except for those signs set forth herein which may be erected without obtaining a permit, every person desiring to erect a sign shall first obtain a sign permit and all other permits required by applicable County ordinances.

**Sec. XX-8. Prohibited and Exempt Signs – Generally**

- (1) No sign shall be erected, hung, placed, or painted in any district except as herein provided.
- (2) No sign shall be erected, hung, affixed, painted or otherwise displayed or altered in size or location unless a permit has been issued by the Zoning Administrator.
- (3) Permitted signs for a nonconforming business or industry and cottage industries shall consist of those signs permitted in the “V,” Village District. Signs existing at the time of enactment of this Ordinance and not conforming to its provisions, but which were constructed in compliance with previous regulations shall be regarded as nonconforming signs. Nonconforming signs that are structurally altered, relocated, or replaced shall comply immediately with all provisions of this Ordinance. Nonconforming signs destroyed or damaged by accident or Act of God shall comply immediately with all provisions of this Ordinance.

**Commented [WM7]:** From existing Code, Section 2.3, excluding the clause: “unless otherwise provided by this ordinance.”

**Commented [WM8]:** From existing Code, Section 2.3, with some separately numbered items being combined into one larger item

Chapter XX. Signs  
**Prohibited Signs**

Sec. XX-9. **Prohibited Signs**

Except as otherwise provided by this chapter, the following signs are prohibited within the County:

- (1) Prohibited signs existing as of August 1, 1989, shall be considered nonconforming signs.
- (2) Dilapidated signs, including sign structures.
- (3) Animated signs, including balloons, streamers, air or gas filled figures, and signs that move mechanically as a result of human activity, wherever located.
- (4) Beacon signs or search lights.
- (5) Electronic message centers, changeable copy signs, and electronic signs. *Exception:* As expressly permitted in Sec. XX herein below.
- (6) Multi-faced signs (more than two sides) and tri-vision (three-sided) signs.
- (7) Neon (or LED tube or rope lighting resembling neon) window signs larger than 3 square feet in total area.
- (8) Pole signs and pylon signs. *Exception:* Wayfinding Directional or wayfinding signs and freestanding signs, and temporary banner signs, may be permitted as set forth herein below.
- (9) Portable signs. *Exception:* Signs mounted, wrapped or painted on a moving vehicle are permitted so long as the vehicle is currently being utilized for a properly licensed business and, whenever the vehicle is parked and not utilized for said business, it is parked at a designated service/loading and unloading area or at the furthest-available parking space from a right-of-way. Alternatively, such a vehicle may be parked behind the business to which it relates if to do so minimizes the view of the portable sign by the public.
- (10) Signs on public rights-of-way other than publicly owned or maintained signs and signs pertaining to railroad crossings.
- (11) A sign containing obscene statements, words, or depictions that are construed to offend public morals or decency.
- (12) Signs that visually simulate an official traffic control device, warning sign, or regulatory sign, or which hide from view any traffic control device, signal, or public service sign.
- (13) Signs that emit or utilize, in any manner, any sound capable of being detected on any traveled road or highway by a person with normal hearing abilities.
- (14) Signs that interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic due to structural deficiencies in the structure of such signs.
- (15) Signs erected by nailing, fastening, or affixing the sign in any manner to any tree, curb, utility pole, natural feature, fence, street sign, or other structure other than wall signs as permitted herein. *Exception:* Does not apply to temporary banner signs or fence manufacturer placards.

**Commented [WM9]:** From existing Code, Section 2.5, un-numbered subsection on Prohibited signs

**Commented [WM10]:** Text does not include the language in the existing code that prohibits "Signs that may move or swing as a result of wind pressure, unless approved by the Planning Commission."

**Commented [WM11]:** The existing Code does not include this exemption; however, neon of two square feet or less is permitted in the Village zoning district.

**Commented [WM12]:** Similar to language in existing code, Section 2.5; however, the provision has been expanded with more description.

**Commented [WM13]:** Similar to language in existing code, Section 2.5

Exempt Signs

- (16) Signs attached to a fire escape or that obstruct any fire escape, any means of egress or ventilation or shall prevent free passage from one part of a roof to any other part thereof.
- (17) Signs that do not conform to County or State building and electrical codes.
- (18) Signs that are in violation of the rules and regulations of any zoning district or zoning overlay district.
- (19) Any sign that is structurally unsound or is a hazard to traffic or pedestrians.
- (20) Any sign that changes color(s), flashes, blinks, oscillates, or intimates movement through lighting effect(s) or the use of video display of any kind, and in any way visible from the right-of-way.
- (21) A sign in the form of a banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device that will move in the wind or be moved manually on a lot or parcel.
- (22) A sign painted on the roof of a building or supported by poles, uprights, or braces extending from or attached to the roof of a building or projected above the roof of a building or above the parapet.
- (23) A sign attached to a structure or property such as a fence, wall, antenna, other sign, tree or other vegetation, or to any public structure such as a utility pole, without permission of the owner.
- (24) Outdoor advertising structures, poster panels, billboards, or signs of any other type advertising products or services not available on the premises.

Commented [WM14]: Similar to language in existing code, Section 2.5

Commented [NN15R14]: Does this overlap with number 3 "Animated signs, including balloons, streamers, air or gas filled figures, and signs that move mechanically as a result of human activity, wherever located."

Commented [WM16]: Similar to language in existing code, Section 2.5

Commented [WM17]: Similar to language in existing code, Section 2.5

Commented [WM18]: The existing text in Section 2.4 includes exemptions that are not included in the proposed draft for institutional signs up to 25 square feet in area, real estate signs up to six square feet in area for 14 days, and construction signs up to six square feet in area to be removed 14 days after completion. Removal of these sign types are to provide for a content-neutral signage approach as required by current case law.

Commented [WM19]: From existing Code, Section 2.4, excluding the clause: "such as safety signs, danger signs, trespassing, traffic, memorial plaques, signs of historic interest and the like."

Sec. XX-10. Exempt Signs

Other than the following exempt signs, all signs require a permit in accordance with the requirements of this chapter. While exempt signs do not require a permit, they are not exempt from any applicable standards of this chapter and shall be subject to all applicable regulations herein:

- (1) Public signs of a noncommercial nature and in the public interest, erected by, or on the order of a public official.
- (2) Painted signs, decals, or other signs located directly inside of or on the surface of the window and/or door of the ground floor of a commercial use, if less than 30 percent of the area of the windowpane.
- (3) Door signs, if less than 2 square feet in total area and not more than one sign per door.
- (4) Yard Signs – Small (3 square feet of less in total area) if conforming to regulations herein.—See applicable regulations herein below.
- (5) Nameplates, if not more than 2 square feet in sign area per nameplate and no more than 1 nameplate per One nameplate building entrance not more than two square feet in total area.
- (6) Address placards, if erected for the sole purpose of displaying street numbers as may be required by other ordinances.
- (6) Flags, if not more than 3 flags per lot and other signs required by law.

Chapter XX. Signs  
**Defined Sign Terms**

- (7) Up to three flags of any fabric or bunting containing colors, patterns, or symbols; attached to a flagpole as a freestanding structure, or a structure attached to a building or to the roof of a building, on a parcel of record and used for the sole purpose of displaying flags, the height of which shall be measured from the average grade.
- (8) Non-governmental traffic control and directional devices located entirely on private property and are consistent with those found in the manual of uniform traffic control devices in or adjacent to parking areas, and driveways and warning signs located at railroad crossings.
- (9) Government mandated signs in compliance with the manual of uniform traffic control devices that comply with the requirements of state law for such signs placed or required to be placed by a government entity.
- (10) Menu signs/ordering kiosks placed adjacent to a commercial drive-thru, with a maximum of four such signs per property, so long as any ground-mounted menu sign does not exceed 18 square feet and any wall-mounted menu sign does not exceed nine square feet, as well as drive-thru menu sign accessory panel exchanges.
- (11) Sandwich boards. See applicable regulations herein below.
- (12) A limited-duration banner sign for a new business up to for 60 days prior to the installation of a permanent sign. See applicable regulations herein below.
- (13) One neon (or LED tube or rope lighting resembling neon) window sign not larger than 3 square feet in total area per individual tenant suite. No blinking shall be allowed.
- (14) Any signs required by law.

Sec. XX-11. **Defined Sign Terms**

In addition to the sign types defined below in this chapter, the following defined terms are used in this chapter:

- (1) **Abandoned Sign:** A permanent sign, including the structural supports and electrical connections, that was legally erected as a location sign, but the building has not been used for 6 months or more, is considered abandoned. A sign for a seasonal use is considered abandoned only if the site remains unused for 12 months.
- (2) **Animated Sign:** Any sign that includes action or motion.
- (3) **Common Development:** A parcel or combination of parcels which share a common development plan, or that are dependent upon one another for access, parking, or utilities.
- (4) **Detached Sign:** A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface, such as a fence or wall not a part of a building, shall be considered a detached sign.
- (5) **Directional Sign:** A permanent representation located near the entrance of a common development, which shows the location or address of the unit designations within the common development. Also, a Wayfinding Sign.
- (6) **Double-Faced Sign:** A sign with two parallel faces, back-to-back, and located not more than 24 inches from each other.

**Commented [WM20]:** Accessory Sign is in the existing code, but not included in the proposed draft. Projecting Sign is relocated to the new graphics section, and it does not appear in this section.

**Commented [NN21R20]:** Projecting sign is defined in the table on page 10

**Commented [NN22]:** To be relocated to a section on nonconformities

**Commented [WM23]:** From existing Code, Section 2.2

**Commented [WM24]:** From existing Code, Section 2.2

Defined Sign Terms

- (7) **Electronic Message Center (EMC):** An electrically activated changeable copy sign having variable message and/or graphic presentation capability that can be electronically programmed by computer or handheld device from a remote location.
- (8) **Flat Sign.** A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than 12 inches at all points. Also, a Wall Sign.
- (9) **Flashing Sign.** An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any sign that revolves or moves shall be considered a flashing sign.
- (10) **Illuminated Sign:** Any sign designed to give forth artificial light, reflect light from another source, or is back lighted by spotlights or flood lights not a part of or attached to the sign itself.
- ~~(11)~~ **Main Entrance:** ~~The entrance of a building that is intended to be the primary public pedestrian access into and out of the building.~~
- ~~(12)~~ **(11) Marquee Sign:** A covered structure projecting from and supported by the building with independent roof and is erected over a doorway or doorways.
- ~~(13)~~ **(12) Parapet:** A low wall or protective barrier that extends vertically above the roof or uppermost floor of a building or other structure.
- ~~(14)~~ **(13) Pole Sign:** A permanent sign that is mounted on a freestanding pole or other support that is placed on, or anchored in, the ground and that is independent from any building or other structure.
- ~~(15)~~ **(14) Portable Sign:** Any sign not permanently attached to the ground or other permanent structure; or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as signs; and signs attached to or painted on vehicles while visible from the public right-of-way, except as provided herein. For the purposes of this chapter, sandwich board signs, banners and pole banners as prescribed herein are not considered portable signs.
- ~~(16)~~ **(15) Primary Vehicle Entrance:** The entrance that provides vehicular access to a property from a street that is intended to be the main vehicular entrance serving the building or common development.
- ~~(17)~~ **(16) Sign:** Any letters, figures, design, symbol, trademark or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem or insignia of a government, school, or religious group when displayed for official purposes. Interior signs, if located on a window or within a distance equal to the greatest dimension of the window and if obviously intended for viewing from the exterior, shall be considered an exterior sign for the purposes of this Ordinance.
- ~~(18)~~ **(17) Sign Area:** That area within a line including the outer extremities, letters, fixtures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area.
- ~~(19)~~ **(18) Temporary Sign:** Any sign, banner, pennant, or advertising display intended to be displayed for a limited time period.

Commented [WM25]: From existing Code, Section 2.2

Commented [WM26]: Term not used elsewhere in the draft proposed code.

Commented [WM27]: From existing Code, Section 2.2

Commented [NN28]: These definitions are not necessary and can be omitted.

Commented [NN29]: This term can be omitted.

Commented [WM30]: From existing Code, Section 2.2, additional text addressing sign supports, double-sided signs, and cylindrical sign areas was not included in the draft proposed code.

Commented [NN31]: These terms can be omitted. Sign area is described earlier in this Article. Temporary sign's definition does not add any value to the reader.

## Nonconforming Signs – Use and Maintenance

### Sec. XX-12. Nonconforming Signs – Use and Maintenance

Subject to the restrictions of this chapter, a nonconforming sign may be used, but not expanded or improved unless the sign is made conforming. All nonconforming signs shall be maintained in good condition and repair and may be subject to removal for violations of maintenance standards.

### Sec. XX-13. Nonconforming Signs - Repair and Replacement; Exceptions

Minor repairs and maintenance of nonconforming signs shall be permitted. Structural repairs or changes in the size or shape of a nonconforming sign shall be permitted if the changes do not expand the nonconforming nature of the sign. A nonconforming sign shall not be replaced by another nonconforming sign. *Exceptions:* (i) the substitution or interchange of sign panels, painted boards, or dismountable material on nonconforming signs shall be permitted; (ii) the substitution or interchange of sign lighting types on nonconforming signs shall be permitted; (iii) the substitution, interchange, or replacement of sign base and/or surround materials on nonconforming signs shall be permitted; (iv) a nonconforming sign damaged or destroyed by act of God or by other circumstances beyond the control of the owner of the sign may be repaired or replaced if the repairs do not exceed 100 percent of total replacement cost.

### Sec. XX-14. Relocation of Nonconforming Signs

A nonconforming sign may be relocated for the purposes of road or sidewalk construction, purchases of right-of-way, or other public works or transportation project initiated by the County or other public agency.

### Sec. XX-15. Sign Administration

- (1) Inspection – Signs for which a permit is required may be inspected periodically by the Zoning Administrator for compliance with this and other codes of the County.
- (2) Maintenance – All signs and components thereof shall be kept in good repair and in a safe, neat, clean and attractive condition.
- (3) Removal of Signs – The Zoning Administrator may order the removal of any sign erected or maintained in violation of this code. The Zoning Administrator shall give 30 days' notice in writing to the owner of such signs, or of the building, structure or premises on which such sign is located, to remove the sign or to bring it into compliance. Upon failure to comply with this notice the Zoning Administrator or duly authorized representative may remove the sign at cost to the owner. The Zoning Administrator may remove a sign immediately and without notice if, in his opinion, the condition or location of the sign is such as to present an immediate threat to the safety of the public.

Commented [WM32]: From existing Code, Section 2.6

**Non-Incidental Sign Types**

- (4) **Abandoned Signs** – A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business that it advertises is no longer conducted on the premises. If the owner or lessee fails to remove it, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator, or the Zoning Administrator’s duly authorized representative, may remove the sign at cost to the owner. Where a successor to a defunct business agrees to maintain the signs as provided in this code, this removal requirement shall not apply.

Commented [WM33]: From existing Code, Section 2.6

**Sec. XX-16. Non-Incidental Sign Types**

The following non-incidental sign types are allowed on private property within the County according to the standards and subject to all requirements set forth herein: (a) ground mounted signs; and (b) building mounted signs.

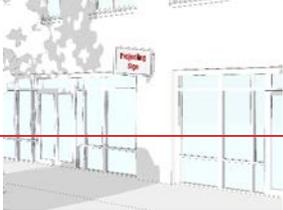
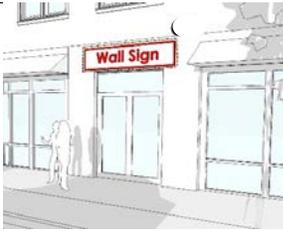
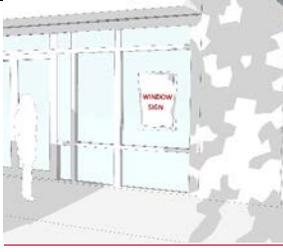
Commented [WM34]: New material except for text of Projecting Sign

(1) **Ground Mounted Signs**

Sign Type	Definition	Example Graphic
<b>Monument Sign</b>	A two-sided sign attached to a permanent foundation or fastened to a base and not attached or dependent upon any structure, pole, post or similar support.	
<b>Directional or Wayfinding Sign</b>	Signs that direct traffic or pedestrians towards a point of interest that are visible from a public right-of-way.	
<b>Freestanding Sign</b>	A sign which is not attached to a building, and which hangs from a support structure attached to a supporting structure attached to the ground.	

Chapter XX. Signs  
**Non-Incidental Sign Types**

(2) Building Mounted Signs

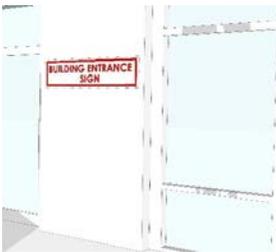
Sign Type	Definition	Example Graphic
<b>Projecting Sign</b>	A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure. The term projecting sign includes a marquee sign.	
<b>Wall Sign or Flat Sign</b>	Any sign attached parallel/flat to a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. The term wall sign includes a flat sign.	
<b>Window Sign</b>	<u>A permanent sign that is painted on or mounted on a windowpane, or that is hung directly inside a windowpane.</u>	

Commented [WM35]: From existing Code, Section 2.2 Definitions

Chapter XX. Signs  
**Incidental Sign Types**

**Sec. XX-17. Incidental Sign Types**

The following incidental sign types are allowed on private property within the County according to the standards and subject to all requirements set forth herein: (a) building identification signs; (b) safety signs; (c) directional signs; and (d) subdivision identification signs.

Sign Type	Definition	Example Graphic
<b>Building Identification Sign</b>	A sign that is located on a wall immediately adjacent to the entrance of a building.	
<b>Safety Sign</b>	A sign that warns persons against certain activities on private property.	No graphic yet
<b>Directional or Wayfinding Sign</b>	A sign that directs traffic or pedestrians towards a point of interest that are visible from a public right-of-way.	
<b>Subdivision Identification Sign</b>	A monument sign permitted in residential districts which contains only one distinct signage area within the sign face for the purpose of identifying the entrance of a subdivision from a street.	

Commented [NN36]: Why is this sign type both incidental and non-incidental?

## Sign Lighting

### Sec. XX-18. Sign Lighting

(1) External lighting is the only permitted sign lighting. See example below:

Sign Lighting	Definition	Example Graphic
External Lighting	A type of illumination where the source of light is external to, and independent of, the sign structure, and the illumination radiates toward the message area away from the viewer. This includes goose neck, linear sign lights, and ground mounted spotlights.	

- (2) The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.
- (3) No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color. Beacon lights are not permitted.
- (4) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- (5) Neither the direct, nor the reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- (6) No exposed reflective type bulbs and no strobe light or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

Commented [WM37]: From existing Code, Section 2.5, unnumbered subsection on illumination

## Electronic Message Center (EMC) and Manual Changeable Copy

- ~~1. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.~~
- ~~2. No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color. Beacon lights are not permitted.~~
- ~~3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.~~
- ~~4. Neither the direct, nor the reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.~~
- (3) ~~5. No exposed reflective type bulbs and no strobe light or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.~~

### Sec. XX-19. Electronic Message Center (EMC) and Manual Changeable Copy

- (1) Electronic message centers shall be permitted as a component of gasoline station signage, quasi-public/institutional uses in accordance with the following standards:

A. No sign containing an electronic message center shall be located within 125 feet of any signalized intersection as measured from the point where the existing right-of-way lines of the intersecting streets meet. In a case where a rounded or cut property corner exists, this measurement shall be taken from the point of the intersection of the existing rights-of-way lines, as extended. The distance shall be measured along the right-of-way line from the point of intersection. (See graphic illustration above.)



- B. Any electronic message center that is located within 300 feet of any residential use must automatically turn off between the hours of 11:00 p.m. and 6:00 a.m. daily.
- C. An electronic message sequence must be accomplished by means of fading or dissolving but shall not scroll, travel, or flash. A transition sequence must be completed in no less than 8 seconds.

**Commented [WM38]:** From existing Code, Section 2.5, unnumbered subsection on illumination

**Commented [WM39]:** This represents a new area of signage regulation.

## Electronic Message Center (EMC) and Manual Changeable Copy

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- D. No portion of any sign may change its message or background in a manner or by a method of display characterized by motion, other than fading or dissolving, or pictorial imagery or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes.
  - E. Electronic message centers shall be designed to either freeze the display in one static position, display a full black screen, or turn off in the event of a malfunction.
  - F. Portable electronic message signs are prohibited. No electronic message center shall be permitted to be included as part of any limited duration sign.
- (2) Manual changeable copy signs are permitted only when integrated into signage for a quasi-public/institutional use or as permitted for a gasoline station.
- A. Area available for changeable copy shall be limited to 15% of the total sign area. This subsection limit is not applicable to volunteer fire companies.

Commented [WM40]: From existing Code, Section 2.3

Chapter XX. Signs  
**Permitted Signs by District**

Sec. XX-20. **Permitted Signs by District**

(1) The type, total sign area and dimensions permitted on farms in the Agriculture Zoning District (AZD) and bona fide farms in any district are as set forth in the table below:

**Commented [WM41]:** This section reformats the presentation of sign area allowances found in Section 2.5 of the existing Code.

<del>Type, Area and Dimensions</del> <b>Sign Type</b>	<b>Farms <del>Uses</del> in AZD</b>
<b>Ground Mounted Signs</b>	<b>Permitted as set forth below:</b>
Freestanding Signs (1 <del>total</del> <b>per lot max.</b> ) advertising products raised on the premises and ag industries	<b>Up to 1 per lot</b> <b>Up to 16 sq. ft. <del>each</del> max.</b>
<del>Identification Sign (1 total)</del>	<b>4 sq. ft. max.</b>
<b>Incidental Signs</b>	<b>Permitted as set forth below:</b>
Building Identification Signs ( <del>up to 2 total</del> )	<b>Up to 1 building identification sign per lot</b> <b>Up to 24 sq. ft. <del>max</del> each</b>
<b>Building Identification Sign, incidental to a home occupation</b>	<b>Up to 1 building identification sign per lot, incidental to a home occupation</b> <b>Up to 2 sq. ft. each</b>
Safety Signs	<b>Unlimited number per lot</b> <b>Up to 2 sq. ft. <del>max</del> each</b>
Directional Signs	<b>Unlimited number per lot</b> <b>Up to 4 sq. ft. <del>max</del> each</b>
<b>Any sign type, used to identify a farm or approved subdivision</b>	<b>Up to 1 per lot</b> <b>Up to 4 sq. ft. each</b>
<del>Subdivision Identification Sign (1 total)</del>	<b>Not Permitted</b>
<b>Flags</b>	<b>Permitted as set forth below:</b>
Incidental Flags (flags of any Nation, State, County or Municipality)	<b>Up to 3 incidental flags per lot</b> <b><del>2 total</del> Up to 28 sq. ft. each</b>
<b>Illumination</b>	<b>Permitted as set forth below:</b>
External	Permitted

**Permitted Signs by District**

(2) The type, total sign area and dimensions permitted in the CC, C, C-CA, I, ICA-LDA, EC, and M districts are as set forth in the table below:

Type, Area and Dimensions	CC, C, CCA, I, ICA-LDA, EC, M
<b>Ground Mounted Signs</b>	<b>Permitted as set forth below:</b>
Monument Sign <del>or Freestanding Sign</del>	<p><u>All businesses: Up to 1 monument sign per lot if no freestanding sign is erected</u>  <u>Up to 25 sq. ft. max each; up to and 25 ft. high</u></p> <p>Waterfront businesses: <u>Up to 1 additional monument sign directed at water, if no freestanding sign is directed at water</u>  <u>Up to 20 sq. ft.; Up to max and 20 ft. high, or wall sign (see below)</u></p>
<u>Freestanding Sign</u>	<p><u>All businesses: Up to 1 freestanding sign per lot if no monument sign is erected</u>  <u>Up to 25 sq. ft. each; up to 25 ft. high</u></p> <p>Waterfront businesses: <u>Up to 1 additional monument sign directed at water, if no freestanding sign is directed at water</u>  <u>Up to 20 sq. ft.; Up to 20 ft. high</u></p>
<u>Identification Sign</u>	<u>For three or more establishments, 65 sq. ft. max.</u>
<b>Building Mounted Signs</b>	<b>Permitted as set forth below:</b>
Wall Sign	<p>Buildings <u>of less than &lt;20,000 sq. ft. may have, up to one</u> wall sign per establishment. <u>Each wall sign may be up to limited to 5% of the area of the establishment's façade</u> fronting the road, <u>but</u> not to exceed 25 sq. ft. or one projecting sign (see below)</p> <p>Buildings <u>of ≥ 20,000 sq. ft. or more may have up to, one</u> wall sign per establishment. <u>Each wall sign may be up to limited to ½ sq. ft. per linear foot of the establishment's façade</u> fronting the road, not to exceed 100 sq. ft. <u>and uses colors approved by Planning Commission and external illumination only; or one projecting sign (see below)</u></p> <p><u>Waterfront businesses only, 20 sq. ft. max., 20 ft. high max.</u></p>

Commented [NN42]: Isn't this an incidental sign? I've deleted it, as Building Identification Sign is listed in Incidental Signs area below.

**Permitted Signs by District**

Projecting Sign	<u>If an establishment has a wall sign: No projecting sign permitted</u> <u>If an establishment does not have a wall sign: Up to 1 per establishment</u> <u>Up to 10 sq. ft. each</u> <del>max.</del>
Neon Window Sign	<u>Up to 1 per lot</u> <u>Up to 2 sq. ft.</u> <del>max.</del> <u>inside mount only</u> <del>each</del>
<b>Incidental Signs</b>	<b>Permitted as set forth below:</b>
<u>Building Identification Signs</u> <del>Building Identification Signs (up to 2 total)</del>	<u>Up to 1 building identification sign per lot</u> <u>Up to 2 sq. ft. each</u> <del>4 sq. ft. max.</del>
<u>Building Identification Sign, incidental to a home occupation</u>	<u>Up to 1 building identification sign per lot, incidental to a home occupation</u> <u>Up to 2 sq. ft. each</u>
<u>Building Identification Sign, incidental to a collection of 3 or more establishments</u>	<u>Up to 1 building identification sign per collection of 3 or more establishments</u> <u>Up to 65 sq. ft. each</u>
<u>Safety Signs</u> <del>Safety Signs</del>	<u>Unlimited number per lot</u> <u>Up to 2 sq. ft. each</u> <del>2 sq. ft. max.</del>
<u>Directional Signs</u> <del>Directional Signs</del>	<u>Unlimited number per lot</u> <u>Up to 4 sq. ft. each</u> <del>4 sq. ft. max.</del>
Subdivision Identification Sign <del>(1 total)</del>	<u>Up to 1 per lot per approved subdivision</u> <u>Up to 10 sq. ft. each</u> <del>max.</del>
<b>Flags</b>	<b>Permitted as set forth below:</b>
Incidental Flags (flags of any Nation, State, County or Municipality)	<del>3 total</del> <u>Up to 3 incidental flags per lot</u> <u>Up to 28 sq. ft. each</u>
Non-Incidental Flag	<u>Up to 1 total non-incidental flag per lot</u> <u>Up to 15 sq. ft. max each</u> , mounted on building façade (not roof) or approved flagpole
<b>Illumination</b>	<b>Permitted as set forth below:</b>
External	Permitted on all signs except neon window signs

In no instance shall the total sign area on buildings less than 20,000 sq. ft. exceed ½ sq. ft. per linear foot of building frontage.

Chapter XX. Signs  
**Permitted Signs by District**

(3) The type, total sign area and dimensions permitted in the RCD, RC, RR, CAR, CR districts and for non-farms in the AZD are as set forth in the table below:

Commented [NN43]: Where is this in the code? Just incidental listing under Section 2.5 on pg. 315?

Type, Area and Dimensions	RCD, RC, RR, CAR, CR and Non-Farms in AZD
<b>Ground Mounted Signs</b>	<b>Permitted as set forth below:</b>
Monument Sign (RC, RCD, RR and CR only)	One at primary vehicle subdivision entrance only (see subdivision identification sign below)
<b>Incidental Signs</b>	<b>Permitted as set forth below:</b>
Building Identification Signs ( <del>up to 2 total</del> <u>2 per lot max.</u> )	4 sq. ft. max. <u>each</u>
Safety Signs ( <u>unlimited number</u> )	2 sq. ft. max. <u>each</u>
Directional Signs ( <u>unlimited number</u> )	4 sq. ft. max. <u>each</u>
Subdivision Identification Sign ( <del>1 total</del> <u>per lot max.</u> )	10 sq. ft. max. <u>each</u>
<b>Flags</b>	<b>Permitted as set forth below:</b>
Incidental Flags (flags of any Nation, State, County or Municipality) ( <u>3 per lot max.</u> )	<del>3 total</del> <u>28 sq. ft. max. each</u>
<b>Illumination</b>	<b>Not permitted</b>

Chapter XX. Signs  
**Permitted Signs by District**

(4) The type, total sign area and dimensions permitted in the V and IV districts are as set forth in the table below:

Type, Area and Dimensions	V, IV
<b>Ground Mounted Signs</b>	<b>Permitted as set forth below:</b>
Monument Sign <del>or Freestanding Sign</del>	<u>Up to 1 per lot if no freestanding sign is erected</u> <u>Up to 25 sq. ft. <del>max.</del> each</u>
<u>Freestanding Sign</u>	<u>Up to 1 per lot if no monument sign is erected</u> <u>Up to 25 sq. ft. each</u>
<b>Building Mounted Signs</b>	<b>Permitted as set forth below:</b>
Wall Sign	<u>Up to 1 <del>One wall sign</del> per establishment if no projecting sign is erected</u> <u>Up to <del>limited to</del> 25 sq. ft. or 5% of the front façade of the establishment, whichever is least; <del>or one projecting sign (see below)</del></u>
Projecting Sign	<u>Up to 1 per establishment if no wall sign is erected</u> <u>Up to 5 sq. ft. <del>max.</del> each</u>
<b>Incidental Signs</b>	<b>Permitted as set forth below:</b>
<del>Building Identification Signs</del> <u>Building Identification Signs (up to 2 total)</u>	<u>Up to 1 per lot</u> <u>Up to 2 sq. ft. each <del>4 sq. ft. max.</del></u>
<u>Building Identification Sign, incidental to a home occupation</u>	<u>Up to 1 sign per lot, incidental to a home occupation</u> <u>Up to 2 sq. ft. each</u>
<u>Building Identification Sign, incidental to a collection of 3 or more establishments</u>	<u>Up to 1 per collection of 3 or more establishments</u> <u>Up to 65 sq. ft. each</u>
<u>Safety Signs</u>	<u>Unlimited number per lot</u> <u>Up to 2 sq. ft. each</u>
<u>Directional Signs</u>	<u>Unlimited number per lot</u> <u>Up to 4 sq. ft. each</u>
<u>Subdivision Identification Sign</u>	<u>Up to 1 per lot per approved subdivision</u> <u>Up to 10 sq. ft. each</u>
<del>Safety Signs</del>	<del>2 sq. ft. max.</del>
<del>Directional Signs</del>	<del>4 sq. ft. max.</del>
<del>Subdivision Identification Sign (1 total)</del>	<del>10 sq. ft. max.</del>
Neon Window Sign (IV district only)	<u>Up to 1 per lot</u> <u>Up to 2 sq. ft. <del>max.</del> each, inside mount only</u>
<b>Flags</b>	<b>Permitted as set forth below:</b>
Incidental Flags (flags of any Nation, State, County or Municipality)	<u>Up to 3 per lot</u> <u>Up to <del>3 total</del> 28 sq. ft. each</u>

Chapter XX. Signs  
**Additional Sign Standards**

Non-Incidental Flag	<del>Up to 1 total, 15 sq. ft. max. each,</del> mounted on building façade (not roof) or approved flagpole
<b>Illumination</b>	<b>Permitted as set forth below:</b>
External	Permitted on all signs except neon window signs
<b>TOTAL SIGN AREA ALLOWANCE</b>	<del>100 sq. ft. max. per lot,</del> <b>1½ sq. ft. max. per linear foot of building frontage and no more than 100 sq. ft. max. per lot.</b>

**Sec. XX-21. Additional Sign Standards**

- (1) Incidental flags shall not be used for advertising or commercial promotion.
- (2) All ground mounted signs shall be setback not less than five feet from the right-of-way line.
- (3) No wall sign shall project more than 12 inches from the building façade.
- (4) No projecting sign shall project more than 36 inches from the building façade.
- (5) All building mounted signs shall be mounted not less than nine feet about the grade immediately below the sign.
- (6) All supports and wiring for building mounted signs shall be concealed from public view.
- (7) No ground mounted sign may be taller than eight feet above the grade immediately adjacent to the sign base.
- (8) The total area of all signs on any property at any given time shall not exceed 100 square feet.

## Criteria for Bonus Sign Area

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### Sec. XX-22. Criteria for Bonus Sign Area

To encourage design excellence, the maximum sign area for certain businesses (not including directional signs or signs for home occupations), industries, and agricultural uses, may be increased by the percentages herein. A separate bonus is granted for compliance with each of the criteria and the area is cumulative, but the percentage is based on the original sign area. In no instance shall the sign area exceed 32 square feet except for directory signs.

- (1) Detached signs may be increased as follows:
  - A. Twenty percent when the sign is constructed of solid wood and uses colors approved by the Planning Commission.
  - B. Ten percent when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory except the one major facility.
  - C. Twenty percent when the sign is installed in a landscaped planter having an area twice the area of the resultant sign and the entire area is approved by the Planning Commission.
  - D. Fifteen\* percent when the sign is not designed or used with illumination, or the sign uses indirect lighting.
  - E. Twenty percent when the sign uses a pedestal or monument base and does not exceed 5 feet in height.
- (2) Attached signs may be increased as follows, but only if the projection does not exceed 12 inches:
  - A. Ten percent when all the lettering and background is uniform in style and color for signs in a shopping center or for any three consecutive separate establishments.
  - B. Fifteen\* percent if the sign is not designed or used with any illumination or the sign uses indirect lighting.
  - C. Five percent if the sign design compliments and utilizes the architectural details of the facade, particularly with respect to historic structures.

Commented [WM44]: From existing Code, Section 2.7



**To:** Comprehensive Rezoning Update Task Force  
**From:** Bill Mackey, Director DPHZ  
**Date:** July 27, 2022  
**Subject:** Proposed nonconformities chapter by ZoneCo

## Memorandum

### **Request**

As part of modernizing the Land Use Ordinance, ZoneCo has proposed changes to the nonconformities chapter. The changes are intended to provide clarity through language updates and re-organization. ZoneCo reported that overall the general approach and composition of the nonconformities chapter is in line with other such chapters in other jurisdictions. The nonconformities chapter addresses how uses that are no longer permitted in a zoning district are treated and how structures that no longer conform to the regulations in a zoning district are treated.

Since re-organization of the chapter created a lot of mark-ups in tracked changes. A clean copy of the chapter with all tracked changes accepted is attached for easier reading. The text content of both the documents are the same.

The ZoneCo Team will present the nonconformities chapter at the meeting on Wednesday, July 27, 2022, at 6 PM.

### **Recommendation**

Staff requests that the Task Force review and comment on the proposed nonconformities chapter.

c: file

# ARTICLE VIII. NONCONFORMITIES

## SECTION 1. NONCONFORMING USES

### 1.1. LAWFUL NONCONFORMING USES, DEFINED

- a. Any use of a *lot* shall be considered a lawful nonconforming use if it:
  1. Does not conform to one or more use *regulations* of this Ordinance;
  2. Existed on the effective date of this Ordinance;
  3. Has not been abandoned; and
  4. Either conformed to the regulations of or was considered to be a lawful nonconforming use by the land use ordinance in effect the day before the effective date of this Ordinance.
- b. The existence of a lawful nonconforming use shall be determined by the Zoning Administrator.
- c. The intermittent or illegal use of a *lot* shall not be sufficient to establish the existence of a lawful nonconforming use.
- d. The existence of a use on a part of a *lot* shall not be construed to establish a lawful nonconforming use on any other part of such *lot*.

### 1.2. CONTINUANCE OF LAWFUL NONCONFORMING USES

A lawful nonconforming use shall be permitted to continue, subject to regulations of this Section.

### 1.3. ABANDONMENT OF LAWFUL NONCONFORMING USES

For the purposes of this Ordinance, the discontinuance of a use for a period exceeding two years shall constitute abandonment of such use. Whether a nonconforming use has discontinued is a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether and for what duration a nonconforming use has discontinued.

### 1.4. ENLARGEMENT OF LAWFUL NONCONFORMING USES

Except in the case of private school or *houses of worship* that existed prior to April 12, 1988, no lawful nonconforming use may be enlarged, increased, or extended so as to occupy any portion of a *lot* or *structure* where the lawful nonconforming use did not exist on the effective date of this Ordinance or so as to occupy any portion of a *lot* or *structure* where the use was abandoned.

### 1.5. LAWFUL NONCONFORMING USES IN THE CRITICAL AREA

Any lawful nonconforming use within the Critical Area which existed on April 12, 1988, may continue without intensification or expansion unless such use has been abandoned for more than one year, or otherwise in accordance with Section 27.01.02.07 of COMAR.

### 1.6. ORDINARY REPAIR AND MAINTENANCE

The normal maintenance and repair or the replacement, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing may be performed on any *structure* that is devoted in whole or in part to a lawful nonconforming use.

## SECTION 2. LAWFUL NONCONFORMING STRUCTURES

### 2.1. LAWFUL NONCONFORMING STRUCTURES, DEFINED

- a. Any structure shall be considered a lawful nonconforming *structure* if it:
  - 1. Does not conform to one or more non-use *regulation* of this Ordinance;
  - 2. Existed on the effective date of this Ordinance;
  - 3. Is not a sign; and
  - 4. Either conformed to the regulations of or was considered to be a lawful nonconforming *structure* by the land use ordinance in effect the day before the effective date of this Ordinance.
- b. Whether a *structure* is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.

2.2. CONTINUANCE OF LAWFUL NONCONFORMING *STRUCTURES*

A lawful nonconforming *structure* may continue to exist, subject to the *regulations* of this Section.

2.3. ORDINARY REPAIR AND MAINTENANCE OF LAWFUL NONCONFORMING *STRUCTURES*

The normal maintenance and repair of a lawful nonconforming *structure* may be performed, provided that any portion of the *structure* undergoing such maintenance or repair either (1) conforms to all non-use *regulations* of this Ordinance, or (2) does not increase its degree of structural nonconformity.

2.4. REPAIR OR RECONSTRUCTION OF LAWFUL NONCONFORMING *STRUCTURES* AFTER CALAMITY

- a. There shall be no repair or reconstruction of a damaged lawful nonconforming *structure* unless all of the following conditions are met:
  - 1. The damage, destruction, or removal of the structure was not voluntarily caused by the property owner or property owner's agent;
  - 2. A permit is obtained prior to repair or reconstruction of the damaged or destroyed *structure*;
  - 3. Repair or reconstruction begins within two years after the calamity; and
  - 4. The repair or reconstruction does not result in an increase in the degree of nonconformity.
- b. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring of a *structure* to a safe condition by order of a public official.

2.5. ALTERATIONS OR ENLARGEMENTS TO LAWFUL NONCONFORMING *STRUCTURES*

No lawful nonconforming *structure* may be altered or enlarged unless one or more of the following conditions are met:

- a. The portion of the *structure* that is proposed to be altered or enlarged will, after the alteration or enlargement, comply with all standards and *regulations* of this Ordinance and will not increase the percent of *impervious surface* on the *lot*.
- b. The lawful nonconforming *structure* has been used a private school without abandonment since April 12, 1988;
- c. The lawful nonconforming *structure* has been used as a *house of worship* without abandonment since April 12, 1988.
- d. The lawful nonconforming *structure* is a dwelling that existed as of April 12, 1988, and is located in the *modified buffer* and conforms to the standards set forth in this section.

2.6. EXPANSION OF EXISTING DWELLINGS IN THE *MODIFIED BUFFER*

Dwellings existing as of April 12, 1988, in the *modified buffer* may be enlarged, provided that:

- a. All opportunities for expansion outside the minimum 100-foot *buffer* are exhausted; and
- b. An area of *natural vegetation* equal to 3 times the footprint of the expansion shall be planted in the 100-foot *buffer*. If there is not enough area in the *buffer* to accommodate the required planting, the required planting shall occur on the same property.

2.7. RELOCATION OF NONCONFORMING *STRUCTURES*

No lawful nonconforming *structure* shall be relocated in whole or in part to another *lot* or to another location on the same *lot* unless, after relocation, every portion of the *structure* conforms to all applicable *site development regulations*.

SECTION 3. NONCONFORMING LOTS

3.1. NONCONFORMING LOTS, DEFINED

A *lot* which was lawfully created and properly recorded but which does not satisfy the minimum *lot area* and/or the minimum *lot width* applicable to the zoning district in which it is located shall be considered a nonconforming *lot*.

Whether a *lot* is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.

3.2. CONTINUANCE OF NONCONFORMING LOTS

- a. Nonconforming *lots* may continue to exist, subject to the *regulations* of this Section.
- b. Nonconforming lots may be occupied by any use permitted by the *regulations* for the district in which it is located.
- c. Nonconforming lots may be developed with *structures* that comply with all *site development regulations* set forth by this Ordinance.

3.3. SUBDIVISION OF NONCONFORMING LOTS

No nonconforming *lot* may be subdivided unless each resulting *lot* conforms to the minimum *lot area* and the minimum *lot width* regulations applicable to the zoning district in which it is located.

SECTION 4. NONCONFORMING SIGNS

*Regulations* concerning nonconforming *signs* may be found in [Article VI, Section 2](#) of this Ordinance.

## ARTICLE VIII. NONCONFORMITIES

### ~~SECTION 1.~~ ~~SECTION 1.~~—NONCONFORMING USES ~~SECTION 1.~~

#### 1.1. LAWFUL NONCONFORMING USES, DEFINED

- a. Any use of a lot shall be considered a lawful nonconforming use if it:
  1. Does not conform to one or more use regulations of this Ordinance;
  2. Existed on the effective date of this Ordinance;
  3. Has not been abandoned; and
  4. Either conformed to the regulations of or was considered to be a lawful nonconforming use by the land use ordinance in effect the day before the effective date of this Ordinance.
- b. The existence of a lawful nonconforming use shall be determined by the Zoning Administrator.
- c. The intermittent or illegal use of a lot shall not be sufficient to establish the existence of a lawful nonconforming use.
- d. The existence of a use on a part of a lot shall not be construed to establish a lawful nonconforming use on any other part of such lot.

#### 1.2. CONTINUANCE OF LAWFUL NONCONFORMING USES

A lawful nonconforming use shall be permitted to continue, subject to regulations of this Section.

#### 1.3. ABANDONMENT OF LAWFUL NONCONFORMING USES

For the purposes of this Ordinance, the discontinuance of a use for a period exceeding two years shall constitute abandonment of such use. Whether a nonconforming use has discontinued is a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether and for what duration a nonconforming use has discontinued.

#### INTERMITTENT USE

The casual, intermittent, or illegal use of the land or buildings shall not be sufficient to establish the existence of a nonconforming use.

#### ~~1.1. CONTINUANCE~~

- ~~1.4. Whether a nonconforming use has ceased is a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrators discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming use has ceased. The lawful use of land, including existing nonconforming uses, existing on the effective date of this Ordinance, although such use does not conform to the regulations specified for the district in which such land is located, may be continued provided:~~ENLARGEMENT OF LAWFUL NONCONFORMING USES

Except in the case of private school or houses of worship that existed prior to April 12, 1988, no lawful nonconforming use he use is may be not enlarged, increased, or extended so as to occupy any portion of a lot or structure where the lawful nonconforming use did not exist on the effective date of this Ordinance or so as to occupy any portion of a lot or structure where the use was abandoned to occupy a greater area than that occupied by such use on the effective date of this Ordinance.

- a. —
- b. — That if any use ceases for a period of two years the subsequent use of such lands shall be in conformity to the regulations specified for the district in which the land is located.

1.2. ~~DISCONTINUANCE OF NONCONFORMING USE~~

~~No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of two years whether or not the fixtures or equipment are removed, shall not again be used except in conformity with the regulations of the district in which such building or land is located. Whether a nonconforming use has ceased is a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming use has ceased.~~

1.3. ~~1.5. LAWFUL~~ NONCONFORMING USES IN THE CRITICAL AREA

Any lawful nonconforming use within the Critical Area existing which existed on April 12, 1988, may continue without intensification or expansion unless the such use is has been abandoned for more than one year, or otherwise in accordance with Section 27.01.02.07 of COMAR. abandoned for more than one year.

1.4. ~~RESTORATION AFTER DAMAGE OR RECONSTRUCTION~~

~~Nothing in these regulations shall prevent the continuance of a use or the reconstruction of a structure occupied by a lawful nonconforming use destroyed by fire, explosion, act of God or act of the public enemy as it existed at the time of such destruction provided that a permit is obtained and reconstruction begun within two years after the occurrence. This provision does not apply to structures that are voluntarily removed or destroyed by the property owner or the property owner's agent.~~

~~1.5.1.1. INTERMITTENT USE~~

~~The casual, intermittent, or illegal use of the land or buildings shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.~~

1.6. ORDINARY REPAIR AND MAINTENANCE

The normal maintenance and repair or the replacement, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing may be performed on any structure that is devoted in whole or in part to the a lawful nonconforming use. ~~Neither this nor any other provision of this section shall be interpreted to authorize any increase in the size or degree of the nonconforming use in violation of the provisions of any subsection of this section.~~

~~Nothing in this section shall be deemed to prevent the strengthening or restoring of a structure to a safe condition by order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.~~

~~SECTION 2. — EXISTENCE OF A NONCONFORMING USE~~

~~Whether a nonconforming use exists is a question of fact and shall be decided by the Zoning Administrator after public notice. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming use exists. Those nonconforming uses in existence prior to November 18, 1969, are hereby validated, albeit the nonconforming use failed to obtain a *certification* from the *Administrator*.~~

~~2.1. — PRIVATE SCHOOLS AND HOUSES OF WORSHIP~~

~~Private schools and *houses of worship* that existed prior to April 12, 1988 may be enlarged or expanded notwithstanding the provisions of Section 1.1 of this Article.~~

~~SECTION 3. — LAWFUL SECTION 2 NONCONFORMING STRUCTURES~~

~~SECTION 2.~~

~~2.1. LAWFUL NONCONFORMING STRUCTURES, DEFINED~~

- ~~a. Any structure shall be considered a lawful nonconforming *structure* if it:~~
- ~~1. Does not conform to one or more non-use *regulation* of this Ordinance;~~
  - ~~2. Existed on the effective date of this Ordinance;~~
  - ~~3. Is not a sign; and~~
  - ~~4. Either conformed to the regulations of or was considered to be a lawful nonconforming *structure* by the land use ordinance in effect the day before the effective date of this Ordinance.~~
- ~~b. Whether a *structure* is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.~~

~~2.2. CONTINUANCE OF LAWFUL NONCONFORMING STRUCTURES~~

~~A lawful nonconforming *structure*, ~~including existing nonconforming structures,~~ existing on the effective date of this Ordinance may ~~be continued~~ continue to exist, subject to the regulations of this Section.  
~~, repaired, maintained, or altered, subject to the provisions of this section.~~~~

~~2.3. ORDINARY REPAIR AND MAINTENANCE OF LAWFUL NONCONFORMING STRUCTURES~~

~~The normal maintenance and repair of a lawful nonconforming *structure* may be performed, provided that any portion of the *structure* undergoing such maintenance or repair either (1) conforms to all non-use *regulations* of this Ordinance, or (2) does not increase its degree of structural nonconformity.~~

~~2.4. REPAIR OR RECONSTRUCTION OF LAWFUL NONCONFORMING STRUCTURES AFTER CALAMITY~~

- ~~a. There shall be no repair or reconstruction of a damaged lawful nonconforming *structure* unless all of the following conditions are met:~~
- ~~1. The damage, destruction, or removal of the structure was not voluntarily caused by the property owner or property owner's agent;~~
  - ~~2. A permit is obtained prior to repair or reconstruction of the damaged or destroyed *structure*;~~
  - ~~3. Repair or reconstruction begins within two years after the calamity; and~~
  - ~~4. The repair or reconstruction does not result in an increase in the degree of~~

nonconformity.

- b. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring of a structure to a safe condition by order of a public official.

2.92.5. ADDITIONS ALTERATIONS OR ENLARGEMENTS TO LAWFUL NONCONFORMING STRUCTURES

NoA lawful nonconforming *structure* may be altered or enlarged if unless the addition satisfies one or more of the following conditions are met:

- a. The ~~propose~~portion of the *structure* that is ~~proposed~~ to be altered or enlarged ~~d addition~~ when considered independently of the existing ~~structure~~ complies will, after the alteration or enlargement, comply with ~~the all~~ standards and *regulations* of this Ordinance and will not increase the percent of impervious surface on the lot.
- b. The lawful nonconforming *structure* has been used a private school without abandonment since April 12, 1988;
- c. The lawful nonconforming *structure* has been used as a *house of worship* without abandonment since April 12, 1988.
- d. The lawful nonconforming *structure* is a dwelling that existed as of April 12, 1988, and is located in the *modified buffer* and conforms to the standards set forth in this section.
- a. ~~—~~
- b. ~~—~~ The nonconforming *structure* is not expanded beyond its current footprint, including adjoining patios, driveways, and sidewalks. *Impervious surfaces* on the *site* shall not be increased as a result of the addition. The *structure*, after the addition, conforms to the height *regulations* applicable to its zoning district.
- e. ~~—~~ The addition does not project any further into a required *side yard* setback than the existing *structure* and the enlarged *building* complies with the *impervious surface* and height *regulations*. This provision does not apply to additions in the *Critical Area buffer*.
- d. ~~—~~ The addition is permitted by other provisions of this Ordinance.
- e. ~~—~~ The Board of Appeals grants a *variance*.

2.102.6. EXPANSION OF EXISTING DWELLINGS IN THE *MODIFIED BUFFER*

Dwellings existing as of April 12, 1988, and in the *modified buffer* may be expanded enlarged, provided that:

- a. All opportunities for expansion outside the minimum 100-foot *buffer* are exhausted; and.
- b. An area of *natural vegetation* equal to 3 times the footprint of the expansion shall be planted in the 100-foot *buffer*. If there is not enough area in the *buffer* to accommodate the required planting, the required planting shall occur on the same property.

2.112.7. MOVING RELOCATION OF NONCONFORMING STRUCTURES

ANo lawful nonconforming ~~*building or structure*~~ shall not be moved relocated in whole or in part to another lot or to another location on its the same lot unless, after relocation, every part portion of the *structure* conforms to all applicable *site development regulations*. ~~or~~  
~~— unless a *variance* is granted by the Board of Appeals~~

~~2.12~~ — ~~REPAIR OR RECONSTRUCTION OF NONCONFORMING STRUCTURES~~

~~Nothing in these regulations shall prevent the repair or reconstruction of a lawful nonconforming structure damaged by fire, explosion, act of God, or act of the public enemy provided that the degree of nonconformity is not increased, that a permit is obtained, and construction is begun within two years after the occurrence. This does not apply to structures removed or destroyed voluntarily by the property owner or property owner's agent. Nothing in this section shall be deemed to prevent the strengthening or restoring of a structure to a safe condition by order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.~~

~~2.13~~ — ~~EXISTENCE OF A NONCONFORMING STRUCTURE~~

~~Whether a structure is nonconforming, shall be a question of fact and shall be decided by the Zoning Administrator. At the Zoning Administrator's discretion, a review of a nonconforming use may be submitted to the Board of Appeals for a determination of whether a nonconforming structure exists.~~

~~2.14~~ — ~~PRIVATE SCHOOLS AND HOUSES OF WORSHIP~~

~~Private schools and houses of worship that existed prior to April 12, 1988 may be enlarged or expanded notwithstanding the provisions of Section 1.1 of this Article.~~

~~SECTION 4.~~ SECTION 3. ~~SECTION 3~~ — NONCONFORMING LOTS

3.1. NONCONFORMING LOTS, DEFINED

A lot which was lawfully created and properly recorded but which does not satisfy the minimum lot area and/or the minimum lot width applicable to the zoning district in which it is located shall be considered a nonconforming lot.

Whether a lot is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.

~~Whether a lot is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.~~

3.2. CONTINUANCE OF NONCONFORMING LOTS

a. Nonconforming lots of record existing at the time of the adoption of this Ordinance may continue to exist, subject to the regulations of this Section shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district.

b. Such Nonconforming lots may be developed-occupied by with any use allowed-permitted by the regulations for the district in which it is located.

c. Nonconforming lots may be developed with structures that and must comply with all other site development regulations set forth by this Ordinance. Whether a lot is nonconforming shall be a question of fact and shall be decided by the Zoning Administrator.

3.3. SUBDIVISION OF NONCONFORMING LOTS

No nonconforming lot may be subdivided unless each resulting lot conforms to the minimum lot area and the minimum lot width regulations applicable to the zoning district in which it is located.

~~SECTION 5.~~ SECTION 4. ~~SECTION 4~~ — NONCONFORMING SIGNS

Regulations concerning nonconforming signs may be found in **Article VI, Section 2** of this Ordinance.





**To:** Comprehensive Rezoning Update Task Force  
**From:** Carla Gerber, Deputy Director DPHZ  
**Date:** May 25, 2022  
**Subject:** District Consolidation – Uses Discussion

## Memorandum

### OLD BUSINESS FROM MARCH 30 - ITEM B

Following the discussion to consolidate districts, staff used the redline draft of the LUO prepared by ZoneCo that was presented at the December 2021 meeting to insert the uses from the district being eliminated into the district being retained. Those uses are highlighted in yellow, and the Task Force needs to make recommendations on keeping as is, deleting, or altering these uses. The Commercial district has the most uses that need to be reviewed.

No other changes have been made to the Statements of Intent or the Density, Area, Height, Width, and Yard requirements.

~~The unofficial matrix of uses for the current Land Use Ordinance has also been included in the packet.~~

c: file

### 1.1 STATEMENT OF INTENT

The purpose of this district is to provide for single family residential development in areas of existing residential development, together with facilities and accessory uses normally compatible with residential surroundings, and at the same time to permit agricultural uses and to preserve open spaces and rural character. This district is in areas near existing developed areas, villages and incorporated towns.

### 1.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A building or land shall be used only for the following permitted uses and structures. **Detailed limitations and standards for these uses may be found in Article III, Section 1.**

1. Adaptive reuse of historic *structures* for a permitted principal use.
2. Agriculture
3. Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps.
4. Detached single family dwellings.
5. Erosion and flood control structures.
6. Greenhouses, wholesale or retail, provided structures are 200 feet from any property line and are adequately landscaped.
7. Public and private forests, wildlife reservations and similar conservation projects.
8. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources,
9. Stable, private
10. **Stable, public**
11. *Mobile homes* existing and in use as of January 16, 1996

### 1.3 SPECIAL EXCEPTIONS

The following principal uses and structures may be permitted as special exceptions in the Community Residential District, subject to site plan review by the Planning Commission or where applicable the Planning Director. **Detailed limitations and standards for these uses may be found in Article III, Section 2.**

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. *Airport*, landing field, heliport, or helistop, public or private
4. Assisted living facilities with five to eight beds
5. **Aquaculture, including accessory processing and sales**
6. Cemetery, including crematorium and mausoleum

7. Conference center
8. Cottage industries, tradesmen and artisan shops
9. Country inn
10. Country stores, on primary and secondary roads
11. Day care group
12. Dog kennels, commercial
13. Golf course, public or private
14. Houses of worship
15. More than four horses and mules on land less than 20 acres size
16. Private clubs
17. Private schools
18. Public landings
19. Public utilities and structures
20. Raising of livestock and fowl but not including commercial feedlots, confinement dairies, or poultry houses.
21. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including dog kennels
22. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
23. Resort
24. Retreat
25. Rural Inn
26. Sand and gravel pits, excavation or extraction (not including the removal of sod and excavation for foundations, swimming pools, soil and water conservation practices, and those removals approved in connection with street construction, subdivision, or planned residential development)
27. Wind energy systems, small, with a height that exceeds 80 feet or on parcels less than 20 acres

#### 1.4 ACCESSORY USES AND STRUCTURES

- A. The following *accessory uses and structures* are allowed on all *farms* in the Community Residential District. Detailed limitations and standards for these uses may be found in Article III, Section 3A.
  1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos.
  2. Accessory farm houses, one on all *farms*, two on *farms* with a minimum of 50 tillable acres.
  3. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

4. Accessory storage of fertilizer and chemicals used in connection with the farming operation of the owner.
5. *Guest house* one, not including *mobile homes*,
6. One hunting trailer, temporary, from September 1 to the following February 15, continually,
7. Parking of commercial vehicles
8. The following *accessory uses* must be at least 200 feet from all property lines:
  - a. Assembly in a *totally enclosed building* not to exceed 10,000 square feet in size and repair of all equipment normally used in *agriculture*.
  - b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.
  - c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.
9. School buses, limited to five, parked around existing *buildings*
10. Wind energy systems, small,

**B. The following *accessory uses and structures* are allowed on all properties in the Community Residential District. Detailed limitations and standards for these uses may be found in Article III, Section 3B.**

1. Accessory *dwelling unit*, one, in principal or *accessory structures*
2. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.
3. Accessory *off-street parking* of one commercial vehicle in the *rear yard*
4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.
5. Assisted living facilities or *group homes*, with no more than four beds
6. *Day care home*
7. *Home occupations* in main or accessory *buildings*
8. Keeping of backyard chickens
9. *Private garages, swimming pools, game courts, and other customary residential outbuildings and structures* provided that *accessory structures* on parcels less than 5 acres do not exceed 1,200 square feet or 17 feet in height.
10. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located.
11. Satellite dish, private, with an antenna exceeding 3 feet in diameter
12. Satellite dish, private, with an antennae of 3 feet or less, and solar panel arrays,
13. School buses, limited to two, parked in the *rear* or *side yard* of the dwelling
14. Solar energy systems, small,

15. Storage in the rear or side yard of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner, or occupant.
16. Temporary *MET Tower* of any height

## 1.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross density (dwelling units/ac)	1 <sup>1</sup>
Minimum lot size	½ acre
Minimum lot width	75 feet
Minimum yard	
- Front	35 feet
- Side	10 feet
- Rear	30 feet
- Waterfront	100 feet
- Accessory structures on farms in the side and rear yard	25 feet
- Accessory residential structures in rear yard	
Side	3 feet
Rear	5 feet
Maximum structure height <sup>2</sup>	
- Residential or Agricultural structure	38 feet
- Fence <sup>3</sup>	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

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<sup>1</sup> Accessory dwelling units are not included in density calculations.

<sup>2</sup> Height of structures may be further restricted by of the Kent County Airport Safety Requirements as defined in Article V, Section 6.8.B.5 of this Ordinance. Except in an area defined as the Kent County Airport Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

<sup>3</sup> Fences do not need to meet yard requirements.

## 2.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling development by providing sites with adequate frontage and depth to permit controlled access to public streets. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. It is the intent that a Commercial District shall have a minimum frontage of 150 feet on a single primary road. Whenever possible, frontage of the district shall not exceed depth.

## 2.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A building or land shall be used only for the following principal uses and structures, in all cases subject to site plan review by the Planning Commission or where applicable the Planning Director. *Detailed limitations and standards for these uses may be found in Article III, Section 1*

1. *Agriculture*
2. *Automobile repair*
3. *Automobile service stations*
4. Building material sales
5. *Car wash provided the waste water is recycled*
6. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year
7. *Cottage industries, tradesmen and artisan shops*  
*Country Inn*
8. Financial Institutions
9. *Fire and rescue squad stations*
10. *Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services*
11. *Hotels and motels*
12. Mini storage facilities
13. Machinery and equipment sales, service, and rental
14. *Modular building sales not including the storage of modular buildings*
15. Motor vehicle sales, service, and rental
16. Offices - administrative, business, sales, and professional, subject to *site plan* review
17. *Personal wireless facilities* collocated
18. Public uses, *buildings* and utilities.

19. *Restaurants* without drive through facilities
20. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores
21. Retail nurseries and greenhouses
22. Veterinary hospitals and offices
23. Wayside stands for vegetable and agricultural produce
24. In the US Route 301 Corridor, the manufacture, processing, fabrication, and assembly of products.
25. Distribution centers and warehousing.
26. *Microbrewery* as defined by the State of Maryland
27. Class D Alcohol Retail Business, as defined by the State of Maryland
28. Data processing centers, subject to the alternate design provisions of Section 11.8.C

### 2.3 SPECIAL EXCEPTIONS

The following principal uses and structures may be permitted as special exceptions in the Commercial District, subject to site plan review by the Planning Commission, or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article III, Section 2..

1. Attached retail businesses
2. Boat building and sales
3. The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing
4. Townhouses, subject to site plan review
5. Multi-family dwellings, subject to site plan review
6. *Personal wireless facility tower*
7. Radio and television tower, commercial
8. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
9. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores with a gross *floor area* that exceeds 60,000 square feet.
10. School bus parking lot
11. Single family dwellings
12. Any mix of permitted principal uses and structures shall be reviewed as a special exception
13. *Shopping centers*

14. Solar energy systems, utility scale
15. Truck parking lot
16. *Truck terminals*
17. *Truck stops*
18. *Wind energy systems, small*, with a height that exceeds 80 feet

## 2.4 ACCESSORY USES AND STRUCTURES

Detailed limitations and standards for these uses may be found in Article III, Section 3B

1. .Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district regulations.
2. *Accessory apartments*
3. Accessory truck parking
4. *Accessory uses and structures* normally associated with a permitted use
5. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance
- 5.5 School buses, limited to three, parked in the *rear* or *side yard* provided the buses are owned or operated by the property owner, have current licenses, and are operable
6. *Solar energy systems, small*,
7. Temporary *MET Tower* of any height
8. *Wind energy systems, small*, limited to one tower

## 2.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Minimum lot size	NA
Minimum frontage	
- Public road	100 feet
Minimum yard	
- Front	50 feet
- Side & Rear yard	50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	100 feet
Height <sup>4</sup>	
- Commercial structure	45 feet
- Residential structure	38 feet
- Fence <sup>5</sup>	
- Security	8 feet
- Ornamental	
Front and side yard	4 feet
Rear yard	8 feet

<sup>4</sup> Except in an area defined as the Kent County Airport Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

<sup>5</sup> Fences do not need to meet yard requirements.

## SECTION 3 EMPLOYMENT CENTER DISTRICT

### 3.1 STATEMENT OF INTENT

Employment Center Districts are defined as planned developments primarily for light industrial uses which are environmentally sound, sustainable and compatible with adjacent uses. They are further defined as areas devoted to industrial uses which present an attractive appearance and complement surrounding land use character by means of appropriate setting of buildings and service areas and landscape treatment.

It is intended that Employment Center Districts be located in areas having one or more major highways, and clearly demonstrated suitable for the intended uses in so far as physical characteristics and relationship to surrounding development.

### 3.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every commercial and industrial structure and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a site plan shall be filed. No building permit shall be issued until said site plan is approved by the Planning Commission or where applicable the Planning Director. **Detailed limitations and standards for these uses may be found in Article III, Section 1.**

1. Manufacture, processing, fabrication, and assembly of products.
2. Businesses and industries, including research and development companies, of a similar nature to those listed in Article V Section 18.2.1 may also be permitted by the Zoning Administrator.
3. Distribution centers and warehousing provided that a single building footprint does not exceed 75,000 square feet in size. The restriction on building footprint does not apply to the Employment Center District in the Route 301 corridor.
4. **Animal shelters, as defined by the County Code of Public Laws**
5. Manufacture of concrete and ceramics products, **commercial sawmills, lumberyards** and sewage treatment plants
6. **Manufacture, processing, and distribution of hot mix asphalt (a.k.a. bituminous concrete or asphalt concrete) including the storage of raw materials on site**
7. *Personal wireless facilities* collocated
8. Public utility *buildings, structures*, water treatment plants, and transmission lines.
9. Blacksmith, welding and machine shops.
10. **Contractors yard**
11. **Cottage industries, tradesmen and artisan shops**
12. Vocational and trade schools including training facilities
13. *Airports*, landing fields, helistops, and heliports.
14. Governmental public works and utility *buildings* or *structures*.
15. Boat building and boat repair.
16. *Truck terminals*, limited to 20 trucks

17. Storage and office trailers, temporary during construction.
18. Offices provided that a single building footprint is 10,000 square feet or greater.
19. *Agriculture,*
20. *Solar energy systems, utility scale,*
21. Data processing centers, subject to the alternate design provisions of Section 14.9.C

### 3.3 SPECIAL EXCEPTIONS

The following principal uses and structures may be permitted as special exceptions in the Employment Center District, subject to site plan review. **Detailed limitations and standards for these uses may be found in Article III, Section 2.**

1. Personal wireless facility tower
2. **Production of biofuels**
3. *Single family dwelling,* one per existing property, subject to the *yard* requirements found in the Agricultural Zoning District,
4. Radio and television tower, commercial
5. Wind energy systems, small, with a height that exceeds 80 feet

### 3.4 PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures are permitted in the Employment Center District. A site plan shall be required. **Detailed limitations and standards for these uses may be found in Article III, Section 3B.**

1. Day care group
2. Dwellings, limited to two (2) for persons permanently employed on the premises
3. Offices
4. Out of water boat storage
5. Restaurants without drive through facilities
6. Retail sales of products produced on-site
- 6.25 Solar energy systems, small,.
- 6.5 Temporary *MET Tower* of any height.
7. Uses and structures which are customarily accessory and incidental to any permitted use shall be permitted in the district provided they are clearly subordinate to the principal use
8. *Wind energy systems, small,* limited to one tower

### 3.5 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
Gross density(dwelling units/ acre)	0.05 (1/20) <sup>6</sup>	<sup>7</sup>
Minimum lot size	20 acres	NA
Maximum residential lot size	2 acres	2 acres
Minimum lot frontage	75 feet	<sup>2</sup>
Minimum yard		
- Front		
- Existing Primary road	100 feet <sup>3</sup>	100 feet <sup>3</sup>
- Other roads	<sup>2</sup>	<sup>2</sup>
- Side and Rear		
- Adjacent to I, ICA, EC	15 feet	<sup>2</sup>
- Adjacent to CC, CCCA, M, AZD, RCD	40 feet <sup>3</sup>	<sup>2</sup>
- Adjacent to V, RR, CAR	100 feet <sup>3</sup>	<sup>2</sup>
- Adjacent to public road	100 feet <sup>4</sup>	100 feet <sup>4</sup>
Height		
- Industrial structure	45 feet	45 feet
- Residential structure	35 feet	35 feet
- Towers, silos, etc.	150 feet <sup>5</sup>	150 feet <sup>5</sup>
- Fence <sup>6</sup>		
- Security	8 feet	8 feet
- Ornamental		
Front and Side	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center		
- Route 301 Corridor	NA	NA
- Other locations	75,000 sq. ft.	75,000 sq. ft.
- Other industrial buildings		
- Route 301 Corridor	NA	NA
- Other locations	250,000 sq. ft.	250,000 sq. ft.
- Office buildings	10,000 sq. ft.	10,000 sq. ft.

<sup>6</sup> Intrafamily transfers only

<sup>7</sup> As approved during subdivision review

<sup>3</sup> When a side or rear lot line coincides with a side or rear lot line of a property in a non-industrial zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, structures, or parking area.

<sup>4</sup> May be reduced or increased during site plan review

<sup>5</sup> Except in the Airport Safety Zone

<sup>6</sup> Fences do not need to meet the yard requirements.





**To:** Comprehensive Rezoning Update Task Force  
**From:** Bill Mackey, Director DPHZ  
**Date:** May 25, 2022  
**Subject:** Specific Text Change re Enclaves in AZD

## Memorandum

### NEW BUSINESS - ITEM F

#### Background

In September 2021, a proposal for review only was submitted requesting a review of enclaves in AZD. The proposal is presented below for your reference.

#### Request

This proposal was submitted via a digital form, and a review was requested as follows: "Request a review of the concept and permitted use of an enclave in AZD as it relates to the 10% rule."

#### Review

Enclaves are an allowed development option only in the Agricultural Zoning District (AZD) [see pp. 18-19, current LUO]. Enclaves are incentivized by allowing a density of one unit per 10 acres over the more restrictive density of one unit per 30 acres in Standard Development in AZD; however, there are certain requirements that may pose a conflict with other goals, such as forest conservation. For example, Article V. Section 1.5 B. 2. b. states: "All plans should minimize the use of tillable soils for development and maximize the use of sloped and forested areas, which are otherwise less productive for agricultural uses." There are also other regulations unique to enclave provisions, and these do not potentially conflict with the general provisions but may act as disincentives for enclave use.

Enclaves must be located at least 600 feet from external access roads and 600 feet from protected lands, defined as "A Maryland Agricultural Land Preservation District or any other agricultural or conservation easement (p. 470)." Agricultural lands on the subject parcel not utilized by the enclave must also be "suitable for a commercially viable agricultural enterprise," per Article V., Section 1.5 B. 2. d. There are limitations on the maximum (ten) and minimum (three) number of lots to be created as well. Most pertinent to the request for review, enclaves are subject to the 10% rule, the same as any other proposed subdivision in AZD. Enclaves and all other lots created from any parent parcel in the AZD must not exceed 10% of the parent parcel, so that 90% of the parent parcel must remain intact.

Enclaves represent an infrequently utilized option historically, and staff have concluded that this may be the result of the additional limitations related to development location (600-foot setbacks), required smaller lots (maximum lot area of  $\frac{3}{4}$  acre as opposed to the minimum lot area of  $\frac{3}{4}$  acre for Standard Development), required smaller front yards (40-foot maximum front setback), and the maximum number of total lots permitted (ten), which may make the option less attractive despite the additional density allowed.

#### Recommendation

No action is needed, unless the Task Force desires to discuss changes to enclaves under Article V., Section 1.5 B.

c: file



**To:** Comprehensive Rezoning Update Task Force  
**From:** Bill Mackey, Director DPHZ  
**Date:** May 25, 2022  
**Subject:** Specific Text Change re Revised Noise Ordinance

## Memorandum

### NEW BUSINESS - ITEM G

#### Background

In September 2021, a proposal for a revised noise ordinance was submitted for consideration by a member of the public. The proposal is attached for your reference.

#### Request

The proposed specific text amendment requests that more stringent standards be adopted beyond the Statewide noise regulations already in place.

#### Review

Currently, the Land Use Ordinance does contain specific noise standards under the Employment Center District Performance Standards, beginning on page 240; under the Industrial zoning district, beginning on page 258; under the Industrial Critical Area – LDA, beginning on page 274; and under the Industrial Critical Area, beginning on page 294. The Land Use Ordinance can be found online at [here](#). A sample excerpt is also attached for your reference.

By virtue of the State noise standards, the County effectively already has Countywide noise standards in place. In order to go beyond these regulations, MD. Environment Code Ann. § 3-401 ([here](#)) sets forth requirements for use of scientific data and consideration, among other things, of the degree of noise reduction attainable using best available technology and the costs of compliance. These make adopting more restrictive standards a high hurdle.

In some jurisdictions, general noise regulations may be included in public law as opposed to the zoning code. Also, at this time and in the foreseeable future, the Department of Planning, Housing, and Zoning does not have either the staffing or the expertise to monitor general noise complaints as part of the zoning function. Those regulations in the zoning code pertaining to Employment Center and Industrial zoning districts would be handled via site plan or other approvals, where an engineer's report would be required to certify that noise levels would be acceptable.

#### Additional resources

MDE webpage <https://mde.maryland.gov/programs/marylander/publichealth/pages/noise.aspx>

COMAR standards [http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=26.02.03.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=26.02.03.*)

#### Recommendation

Staff does not recommend inclusion of additional noise standards in the proposed Land Use Ordinance.

c: file