

Key

Red underlined text provides either the section reference or a use name change in the draft

Text highlighted in turquoise deals with grandfathering language. All grandfathering provisions are located in Sec. 8.7.1 of draft

Text with ~~red strikethrough~~ has not been included in the draft Zoning Code

3/14/2013

Division 59-C-9. Agricultural Zones.

Sec. 59-C-9.1. Zones established.

The following are the agricultural zones and their identifying symbols:

Rural-Rural RR- Rural Residential

RC-Rural Cluster RC- Rural Cluster

RDT-Rural Density Transfer AC- Agricultural Conservation

Rural Neighborhood Cluster-RNC RNC- Rural Neighborhood Cluster

RS-Rural Service IM- Moderate Industrial

~~LDRCDZ-Low Density Rural Cluster Development Zone-not mapped~~

Sec. 59-C-9.2. Purposes or intent of the zones.

59-C-9.21. Intent of the Rural zone. Sec 2.2.2.A Intent of Rural Zone

The intent of this zone is to preserve rural areas of the county for agriculture and other natural resource development, residential uses of a rural character, extensive recreational facilities, and protection of scenic and environmentally sensitive areas.

59-C-9.22. Intent of the Rural Cluster zone. Sec 2.2.2.B Intent of the RC Zone

The intent of this zone is to provide designated areas in the county for a compatible mixture of agricultural uses and low-density residential development to promote agriculture, and to protect scenic and environmentally sensitive areas.

59-C-9.23. Intent of the Rural Density Transfer zone. Sec 2.2.1.A Intent of AR Zone

The intent of this zone is to promote agriculture as the primary land use in sections of the County designated for agricultural preservation in the General Plan, the Functional Master Plan for Preservation of Agriculture and Rural Open Space, and other master plans. This is to be accomplished by providing large areas of generally contiguous properties suitable for agricultural and related uses and permitting the transfer of development rights from properties in this zone to properties in designated receiving areas.

Agriculture is the preferred use in the Rural Density Transfer zone. All agricultural operations are permitted at any time, including the operation of farm machinery. No agricultural use can be subject to restriction on the grounds that it interferes with other uses permitted in the zone, but uses that are not exclusively agricultural in nature are subject to the regulations in Division 59-C-9 and in Division 59-G-2, "Special Exceptions—Standards and Requirements."

The intent of the child lot option in the Rural Density Transfer zone is to facilitate the continuation of the family farming unit or to otherwise meet the purposes of the RDT zone.

59-C-9.23.1. Intent of the Rural Neighborhood Cluster zone. Sec 2.2.2.C Intent of RNC Zone

The intent of the Rural Neighborhood Cluster zone is to preserve open land, environmentally sensitive natural resources and rural community character that would be lost under conventional, large-lot development. This would be accomplished by requiring clusters of residential development in the form of small neighborhoods that provide neighborhood identity in an open space setting.

It is further the intent of this zone to implement the recommendations of the relevant master plan, such as maintaining broad vistas of open space, preserving agrarian character or preserving environmentally sensitive natural resources to the maximum extent possible, and to ensure that new development is in harmony with the policies and guidelines of the relevant master plan and is compatible with existing development in adjoining communities.

In order to accomplish the intent of the Rural Neighborhood Cluster zone, no land must be classified in this zone unless the land is within an area for which there is an approved and adopted master or sector plan which recommends application of the Rural Neighborhood Cluster zone. Master plans that recommend the Rural Neighborhood Cluster zone must provide development guidelines and recommendations regarding the density of development in the optional method of development, and the location and rationale for preserving the rural open space.

59-C-9.24. Purpose of the Rural Service zone. Sec. 2.2.6.A Intent of IM Zone

The purpose of this zone is to allow limited types of service and commercial uses in rural areas of the County. Such uses must support traditional low density rural land uses, while protecting and maintaining an overall rural character. Further, it is intended that this zone be located in areas that are not suitable for primarily residential development. The zone must be located in areas recommended on an approved and adopted master plan and must front on and have direct access to a road of arterial or higher classification.

Development in this zone must have a rural appearance and character. In order to maintain rural character, development must have limited imperviousness and may provide landscaping and screening and a high percentage of open space. Landscaping and screening is also to be used to provide adequate screening from adjacent land uses. All proposed landscaping, and screening must be approved at the site plan review.

The fact that an application for this zoning designation complies with all specific requirements and purposes set forth herein does not create a presumption that the application is, in fact, compatible with surrounding land uses, and, in itself, is not sufficient to require the granting of any application.

~~—59-C-9.25. Purpose of the Low Density Rural Cluster Development zone.~~

~~It is the purpose of the Low Density Rural Cluster Development zone to implement the general plan for the Maryland Washington Regional District and the local area master plan by permitting well designed development consistent with the density proposed by the local area master plan. It is also the purpose of the Low Density Rural Cluster Development Zone to provide suitable sites for low density residential development which may be served by community sewer and water service at locations designated: a) for development at densities not more than one unit per 5 acres by an approved and adopted master plan; b) for a buffer or transitional use between agricultural areas and low density one family uses and between 2 higher density developments; c) for conservation of a sensitive environmental area; d) for protection of scenic and sensitive environmental resources and the preservation of existing open space or agricultural areas. Under this zone, the general plan or area master plan can be implemented in a manner and to a degree more closely compatible with County plans and policies than otherwise possible.~~

~~The Low Density Rural Cluster Development Zone is intended to provide the maximum amount of freedom in lot size and design in order to permit the greatest amount of open space to be conserved, and to prevent detrimental affects on the environment. The open space should be appropriately located for agricultural preservation, environmental protection, and preservation of the rural character as viewed from areas visible to the community.~~

Therefore, to meet this objective the optional standards, guidelines, and requirements of Section 59-C-9.5 apply in this zone. In addition, the lots developed under these provisions must be connected to a community water and sewerage system, unless it can be demonstrated that at the time of subdivision a limited number of lots on a private well and septic facility within the cluster will provide a more beneficial subdivision design because of environmental or compatibility reasons.

The fact that an application complies with all the specific requirements and purposes of the zone will not be deemed to create a presumption that the application is, in fact, compatible with surrounding land uses, and, in itself will not be sufficient to require granting the application.

— See County Attorney Opinion dated 4/26/99 explaining that a transfer of development rights easement continues to restrict development even when the underlying zoning of the property is changed. See County Attorney Opinion dated 8/11/98 describing the effect of annexation of land into Town of Poolesville on transferable development rights existing on the land prior to annexation. See County Attorney Opinion dated 10/28/97 indicating that a family burial site is not an accessory use to an agricultural use, but may be nonconforming in some instances. See County Attorney Opinion dated 10/2/90 explaining that, without a main dwelling or a transferable development right to support it, no farm tenant house may be constructed.

Sec. 59-C-9.3. Land uses. Sec 3.1.7 Allowed Use Table

No use is allowed except as indicated in the following table:

— **Permitted uses.** Uses designated by the letter “P” are permitted on any lot in the zones indicated, subject to all applicable regulations.

— **Special exception uses.** Uses designated by the letters “SE” may be authorized as special exceptions under Article 59-G. Conditional Uses

<u>Words in parentheses after each use refer to the use group in the new use table</u>	Rural	RC	LDR	RDT <u>AR</u>	RS <u>IM</u>	RNC	RNC/ TDR <u>RNC w/ TDR overlay</u>
(a) Agricultural:							
Agricultural processing, primary <u>Farming (Agricultural)</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	P	P
Equestrian facility. ⁴¹ <u>(Agricultural)</u>	P/SE <u>L</u>	P/SE <u>L</u>	P/SE	P/SE <u>L</u>	P/SE	P ⁴⁹ / SE ² <u>L</u>	P ⁴⁹ / SE ² <u>L</u>
Farm. ¹ <u>Farming (Agricultural)</u>	P	P	P	P	P <u>L</u>	P	P
Fish hatchery. <u>Farming (Agricultural)</u>	P	P	P	P	P <u>L</u>		
Other agricultural use. <u>Various Uses (Agricultural)</u>	P	P	P	P	P	P	P
(b) Agricultural-Industrial:							
Abattoir. <u>Slaughterhouse (Agricultural)</u>	SE <u>C</u>	SE ² <u>C</u>	SE²	SE <u>C</u>			
Agricultural processing. ³⁶ <u>(Agricultural)</u>	SE <u>C</u>	SE ² <u>C</u>	SE²	SE <u>C</u>	SE <u>P</u>		
Construction Debris Reclamation Facility. <u>Recycling Collection and Processing</u>					P <u>L</u>		

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Contractors storage yard. ²⁸ (existing) <u>Contractor storage Yard</u>					<u>P</u> <u>L</u>		
Grain elevator. ³⁶ <u>Agricultural Processing (Agricultural)</u>	<u>SE</u> <u>C</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ²	<u>SE</u> <u>C</u>	<u>SE</u> <u>P</u>		
Manufacture of light sheet metal products. ²⁸ (existing) <u>Light Manufacturing and Production</u>					<u>P</u>		
Manufacture of mulch and composting. <u>Agricultural Processing (Agricultural)</u>	<u>SE</u> <u>C</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ²	<u>SE</u> <u>C</u>	<u>SE</u> <u>P</u>		
Milk plant. ³⁷ <u>Agricultural Processing (Agricultural)</u>	<u>SE</u> <u>C</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ²	<u>SE</u> <u>C</u>	<u>P</u>		
Sawmill. <u>Agricultural Processing (Agricultural)</u>	<u>SE</u> <u>C</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ²	<u>SE</u> <u>C</u>	<u>P</u>		
Storage, outdoor. <u>Storage Facility (any size)</u>		<u>SE</u>			<u>P</u>		
Storage for recycling of building or construction materials. ²⁸ (existing) <u>Storage Facility (any size)</u>					<u>P</u>		
Winery. ³⁸ <u>Winery (Agricultural)</u>	<u>SE/P</u> <u>L</u>	<u>SE/P</u> <u>L</u>	<u>SE/P</u>	<u>SE/P</u> <u>L</u>	<u>SE/P</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ² <u>C</u>
Wood product and furniture manufacturing. ²⁸ (existing) <u>Artisan Manufacturing and Production</u>					<u>P</u>		
(c) Agricultural-Commercial:							
<u>Blacksmith</u> . ⁴	<u>SE</u>	<u>SE</u> ²	<u>SE</u> ²	<u>SE</u>	<u>P</u>	<u>P</u> ²	<u>P</u> ²
Christmas tree sales between December 5 and 25. <u>Seasonal Outdoor Sales (Agricultural)</u>	<u>P</u> <u>L</u>	<u>P</u> <u>L</u>	<u>P</u>	<u>P</u> <u>L</u>	<u>P</u>	<u>P</u> ² <u>L</u>	<u>P</u> ² <u>L</u>
Country market. <u>Rural Country Market (Commercial)</u>	<u>SE</u> <u>C</u>	<u>SE</u> <u>C</u>	<u>SE</u>	<u>SE</u> <u>C</u>	<u>P</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ² <u>C</u>
Farm market. ⁵ <u>Farm Market, On-site (Agricultural)</u>	<u>P</u> <u>L</u>	<u>P</u> <u>L</u>	<u>P</u>	<u>P</u> <u>L</u>	<u>P</u> <u>L</u>	<u>P</u> ² <u>L</u>	<u>P</u> ² <u>L</u>
Landscape contractor. ^{3, 2} <u>Landscape Contractor (Commercial)</u>	<u>SE</u> <u>C</u>	<u>SE</u> <u>C</u>	<u>SE</u>	<u>SE</u> <u>C</u>	<u>P</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ² <u>C</u>
Nursery, horticultural - retail. ^{1, 3} <u>Nursery, retail (Agricultural)</u>	<u>SE</u> <u>C</u>	<u>SE</u> <u>C</u>	<u>SE</u>	<u>SE</u> <u>C</u>	<u>P</u>	<u>SE</u> ² <u>C</u>	<u>SE</u> ² <u>C</u>

<u>Words in parentheses after each use refer to the use group in the new use table</u>	Rural	RC	LDRC	RDT <u>AR</u>	RS <u>IM</u>	RNC	RNC/ TDR <u>RNC w/ TDR overlay</u>
Nursery, horticultural - wholesale. ^{1,3} <u>Nursery, wholesale (Agricultural)</u>	SE <u>C</u>	SE ² <u>C</u>	SE ²	SE <u>C</u>	P	SE ² <u>C</u>	SE ² <u>C</u>
(d) Resource Production and Extraction:²							
Rock or stone quarry, as a temporary use. <u>Mining, Excavation (Industrial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>			
Sand, gravel or clay pit, or extraction of other natural materials, as a temporary use. <u>Mining, Excavation (Industrial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>			
(e) Residential:²							
Accessory apartment. ^{6,7} <u>Attached / Detached (Residential)</u>	SE <u>L/C</u>	SE <u>L/C</u>	SE	SE ⁴⁸ <u>L/C</u>		SE <u>L</u>	SE <u>L</u>
Accessory dwelling. ⁷ <u>Farm Tenant Dwelling</u>	SE <u>L</u>	SE <u>L</u>	SE	SE ⁴⁸ <u>L</u>	SE	SE <u>L</u>	SE <u>L</u>
Accessory dwelling for agricultural workers. ⁴² <u>Farm Tenant Dwelling (Residential)</u>	<u>L</u>	<u>L</u>		<u>P L</u>		<u>L</u>	<u>L</u>
Bed-and-breakfast lodging with one or 2 guest rooms. ³¹ <u>Bed and Breakfast (Commercial)</u>	<u>P L</u>	<u>P L</u>	P	⁴⁸ <u>P L</u>	P	<u>P L</u>	<u>P L</u>
Bed-and-breakfast lodging with 3, 4 or 5 guest rooms. ¹⁸ <u>Bed and Breakfast (Commercial)</u>	SE <u>L</u>	SE <u>L</u>	SE	SE ⁴⁸ <u>L</u>	P	SE <u>L</u>	SE <u>L</u>
Dwellings, one-family detached. <u>Single-Unit Living (Residential)</u>	<u>P P</u>	<u>P P</u>	P	<u>P P</u>	P	<u>P P</u>	<u>P P</u>
Dwellings, one-family semi-detached. ⁴⁴ <u>Two-Unit Living (Residential)</u>						<u>P L</u>	<u>P L</u>
Farm tenant dwelling. ⁸ <u>Farm Tenant Dwelling (Residential)</u>	<u>P L</u>	<u>P L</u>	P	<u>P L</u>		<u>P L</u>	<u>P L</u>
Farm tenant mobile home, more than one but less than 4. ⁸ <u>Farm Tenant Dwelling (Residential)</u>	SE <u>L</u>	SE <u>L</u>	SE	SE <u>L</u>		SE <u>L</u>	SE <u>L</u>
Group home, small. <u>Residential Care Facility (up to 8 persons) (Residential)</u>	<u>P P</u>	<u>P P</u>	P	⁴⁸ <u>P L</u>	P	<u>P P</u>	<u>P P</u>
Group home, large. ¹⁵ <u>Residential Care Facility (9 to 16 persons) (Residential)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE	SE <u>C</u>	SE <u>C</u>
Guest house, as accessory use. ⁸	<u>P L</u>	<u>P L</u>	P	⁴⁸ <u>P L</u>	<u>P L</u>	<u>P L</u>	<u>P L</u>

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Guest rooms, for not more than 2 roomers in any dwelling unit. <u>Household Living</u>	P	P	P	P ⁴⁸	P	P	P
Housing and related facilities for senior adults or persons with disabilities. <u>Independent Living Facility for Seniors or Persons with Disabilities (Residential)</u>	SE <u>C</u>	SE <u>C</u>	SE		SE	SE <u>C</u>	SE <u>C</u>
Life care facility. <u>Residential Care Facilities Up to 8/9-16 Persons/Over 16 persons (Residential)</u>	SE <u>P/C/C</u>	SE <u>P/C/C</u>	SE	<u>L/C/C</u>		SE <u>P/C/C</u>	SE <u>P/C/C</u>
Mobile home, double wide. ⁹	P	P	P	P ⁴⁸	P	P	P
Registered living unit. ^{6,20} <u>Accessory Apartment Attached/ Detached (Residential)</u>	P <u>L/C</u>	P <u>L/C</u>	P	P ⁴⁸ <u>L/C</u>	P	P <u>L</u>	P <u>L</u>
Townhouse. <u>Townhouse Living (Residential)</u>						P	P
(f) Transportation, Communication and Utilities:							
Airstrip, associated with farming operations. <u>Farm Airstrip (Agricultural)</u>		SE ² <u>C</u>	SE	SE <u>C</u>			
Amateur radio facility. <u>Up to 65'/Over 65' (Commercial)</u>	P ⁴⁶ / SE <u>P/C</u>	P ⁴⁶ / SE <u>P/C</u>	P⁴⁶/SE	P ⁴⁶ / SE <u>P/C</u>	P ⁴⁶ / SE <u>P/C</u>	P ⁴⁶ / SE <u>P/C</u>	P ⁴⁶ / SE <u>P/C</u>
Cable communication system. ¹⁰ <u>(Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE <u>C</u>	SE <u>C</u>	SE <u>C</u>	SE <u>C</u>
Electric power transmission and distribution line, overhead, carrying more than 69,000 volts. <u>Transmission Lines (Above Ground) (Industrial)</u>	SE <u>P</u>	SE <u>P</u>	SE	SE <u>P</u>	SE <u>P</u>	SE <u>P</u>	SE <u>P</u>
Electric power transmission and distribution line, overhead, carrying 69,000 volts or less. <u>Transmission Lines (Above Ground) (Industrial)</u>	P	P	P	P	P	P	P
Electric power transmission and distribution line, underground. <u>Transmission Lines (Below Ground) (Industrial)</u>	P	P	P	P	P	P	P
Helistop. <u>Farm Airstrip, Helistop</u>	SE	SE ^{2,11} <u>C</u>	SE^{2,11}	SE ¹¹ <u>C</u>	<u>C</u>		

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Parking of motor vehicles, other than heavy commercial vehicles, off-street, in connection with any use permitted. <u>Surface Parking for Use Allowed in the Zone</u> Vehicles and machinery for agricultural use may be parked on any size lot without restrictions. <u>Sec. 7.2.6. N. Commercial Vehicle Parking</u> A tow truck is not permitted to park with a vehicle attached on any size lot or parcel. <u>Sec. 7.2.6.N Commercial Vehicle Parking</u>	<u>P⁵⁰</u>	<u>P⁵⁰</u>	<u>P⁵⁰</u>	<u>P⁵⁰</u>	P	<u>P⁵⁰</u>	<u>P⁵⁰</u>
Parking of motor vehicles, off-street, in connection with commercial uses. <u>Surface Parking for commercial uses in a historic district (Commercial)</u>	<u>P³⁹ L</u>			<u>P³⁹ L</u>			
Pipeline, aboveground. <u>(Industrial)</u>	<u>SE C</u>	<u>SE C</u>	SE	<u>SE C</u>	<u>SE P</u>		
Pipeline, underground. <u>Pipeline (Below Ground) (Industrial)</u>	P	P	P	P	P	P	P
Public utility buildings and structures. <u>(Industrial)</u>	<u>SE C</u>	<u>SE C</u>	SE	<u>SE C</u>	<u>SE C</u>	<u>SE² C</u>	<u>SE² C</u>
Radio or television broadcasting stations and towers. <u>Media Broadcast Tower (Commercial)</u>	<u>SE C</u>	<u>SE² C</u>	SE²	<u>SE C</u>	<u>SE C</u>		
Railroad track. <u>(Industrial)</u>	P	P	P	P	P		
Rooftop mounted antennas and related unmanned equipment building, equipment cabinets, or equipment room. ²⁷ <u>Antenna on Existing Structure (Commercial)</u>	<u>P L</u>	<u>P L</u>		<u>P L</u>	<u>L</u>	<u>P L</u>	<u>P L</u>
Telecommunications facility. <u>Telecommunications Tower</u>	<u>P³³/ SE L</u>	<u>P³³/ SE L</u>	P³³/SE	<u>P³³/ SE L</u>	<u>P³²/ SE L</u>	<u>SE² C</u>	<u>SE² C</u>
Telephone or telegraph line. <u>Transmission Line (aboveground) or (belowground)</u>	<u>P P</u>	<u>P P</u>	P	<u>P P</u>	<u>P P</u>	<u>P P</u>	<u>P P</u>
(g) Commercial:²							
Antique shop. <u>Rural Antique Shop (Commercial)</u>	<u>SE C</u>	<u>SE C</u>	SE	<u>SE⁴⁸ C</u>	P	<u>SE C</u>	<u>SE C</u>
Auction facility. ¹² <u>Agricultural Auction Facility (Agricultural)</u>				<u>SE⁴⁸ C</u>	P		

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Farm machinery: sales, storage, or service. <u>Farm Supply or Machinery Sales, Storage, Service (Agricultural)</u>		SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	P <u>P</u>		
Farm supply: sales, storage, or service. <u>Farm Supply or Machinery Sales, Storage, Service (Agricultural)</u>		SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	P <u>P</u>		
Transitory use. ²⁶ <u>(Commercial)</u>	P/SE <u>L</u>	P/SE <u>L</u>		P ⁴⁸ / SE ⁴⁸ <u>L</u>	<u>L</u>	P/SE <u>L</u>	P/SE <u>L</u>
(h) Services:²							
Adult foster care home. <u>Residential Care Facilities (Up to 8 persons) (Residential)</u>	P	P	P	P ⁴⁸ <u>L</u>	P	P	P
Ambulance or rescue squad, publicly supported. <u>Public Use (Except Utilities) (Civic)</u>	P	P	P	P ⁴⁸	P	P	P
Animal boarding place. <u>Animal Boarding and Care (Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE <u>C</u>	SE <u>L</u>	SE <u>C</u>	SE <u>C</u>
Cemetery. <u>(Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE	SE <u>C</u>	SE <u>C</u>
Charitable or philanthropic institution. ¹⁹ <u>(Civic)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE	SE <u>C</u>	SE <u>C</u>
Child day care facility:							
—Family day care home. <u>Family Day Care (up to 8 persons) (Civic)</u>	P	P		P	P	P	P
—Group day care home. ³⁴ <u>Group Day Care (9 to 12 persons) (Civic)</u>	P <u>L</u>	P <u>L</u>		P ⁴⁸ <u>L</u>	P	P <u>L</u>	P <u>L</u>
—Child day care center. <u>Day Care Center (over 30 persons) (Civic)</u>	SE <u>C</u>	SE <u>C</u>		SE ⁴⁸ <u>C</u>	P	SE <u>C</u>	SE <u>C</u>
Church, memorial garden, convent, monastery, and/or other place of worship. <u>Religious Assembly (Civic)</u>	P	P	P	P ⁴⁸ <u>L</u>	P	P	P
Day care facility for more than 4 senior adults and persons with disabilities. <u>Up to 8 Persons/9to12/13to30/Over 3(Civic)</u>	SE <u>P/L/C/C</u>	SE <u>P/L/C/C</u>	SE	SE ⁴⁸ <u>P/L/C/C</u>	SE <u>P</u>	SE <u>P/L/C/C</u>	SE <u>P/L/C/C</u>
Day care facility for not more than 4 senior adults and persons with disabilities. ¹⁴ <u>Day Care Facility (Up to 8 Persons) (Civic)</u>	P	P	P	P ⁴⁸	P	P	P

<u>Words in parentheses after each use refer to the use group in the new use table</u>	Rural	RC	LDRC	RDT <u>AR</u>	RS <u>IM</u>	RNC	RNC/ TDR <u>RNC w/ TDR overlay</u>
Domiciliary care home for more than 16 residents. ³⁵ <u>Residential Care Facility (over 16 persons) (Residential)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE	SE <u>C</u>	SE <u>C</u>
Educational institution, private. <u>Educational Institution (Private) (Civic)-</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ^{43,48}	SE <u>P</u>	SE <u>C</u>	SE <u>C</u>
Family burial sites. <u>Cemetery (Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE <u>C</u>		<u>C</u>	
Fire station, publicly supported. <u>Public Use (Except Utilities) (Civic)</u>	P	P	P	P ⁴⁸	P	P	P
Funeral parlor or undertaking establishment <u>Funeral Home, undertaker (Commercial)</u>				SE ^{40, 48} <u>C</u>			
Home health practitioner's office. <u>Home Health Practitioner Low Impact/Major Impact (Residential)</u>	P ²² / SE ²¹ <u>L/C</u>	P ²² / SE ²¹ <u>L/C</u>	P ²² / SE ²¹ / <u>L/C</u>	P ^{22, 48} / SE ^{21, 48} <u>L/C</u>	P ²² / SE ²¹	P ²² / SE ²¹ <u>L/C</u>	P ²² / SE ²¹ <u>L/C</u>
Home occupation, major. ²¹ <u>Home occupation Major impact (Residential)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE	SE <u>C</u>	SE <u>C</u>
Home occupation, registered. ²² <u>Home occupation Low impact (Residential)</u>	P <u>L</u>	P <u>L</u>	P	P ⁴⁸ <u>L</u>	P	P <u>L</u>	P <u>L</u>
Home occupation, no impact. ²³ <u>Home occupation No impact (Residential)</u>	P <u>L</u>	P <u>L</u>	P	P <u>L</u>	P	P <u>L</u>	P <u>L</u>
Hospice care facility. <u>Residential Care Facility Upto8/9to16/over16 (Residential)</u>	SE <u>P/C/C</u>	SE <u>P/C/C</u>	SE	SE ⁴⁸ <u>L/C/C</u>	SE	SE <u>P/C/C</u>	SE <u>P/C/C</u>
Hospital, veterinary. <u>Veterinary Office/Hospital (Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE <u>L</u>	SE <u>C</u>	SE <u>C</u>
Nursing home. ³⁵ <u>Residential Care Facility Upto8/9to16/over16 (Residential)</u>	SE <u>P/C/C</u>	SE <u>P/C/C</u>		<u>L/C/C</u>	SE	SE <u>P/C/C</u>	SE <u>P/C/C</u>
Offices, general. ²⁹ <u>Office (Commercial)</u>					SE <u>L</u>		
Publicly owned or publicly operated use. <u>Public Use (Except Utilities) (Civic)</u>	P	P	P	P	P	P	P
Respite care home. <u>Residential Care Facility (Up to 8 persons) (Residential)</u>	P	P	P	P ⁴⁸ <u>L</u>	P	P	P
Sanitarium. <u>Residential Care Facility Upto8/9to16/over16</u>	SE <u>P/C/C</u>	SE <u>P/C/C</u>	SE	SE ⁴⁸ <u>L/C/C</u>	SE	SE <u>P/C/C</u>	SE <u>P/C/C</u>
(i) Cultural, Entertainment and Recreational:							
Boathouse, private. <u>Accessory Buildings, Structures and Uses</u>	P <u>L</u>	P <u>L</u>	P	P ⁴⁸ <u>L</u>	P <u>P</u>	<u>L</u>	<u>L</u>
Camp retreat, non-profit-	-	P ⁴⁵		-	-	-	-

<u>Words in parentheses after each use refer to the use group in the new use table</u>	Rural	RC	LDRC	RDT <u>AR</u>	RS <u>IM</u>	RNC	RNC/ TDR <u>RNC w/ TDR overlay</u>
Camp grounds. <u>Campground (Commercial)</u>	SE <u>C</u>						
Country club. <u>Golf Course, Country Club (Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE				
Golf course. <u>Golf Course, Country Club (Commercial)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ^{25, 48}			
Hunting or fishing cabin, private. ¹⁶ <u>Accessory Buildings, Structures and Uses</u>	P <u>L</u>	P <u>L</u>	P	P ⁴⁸ <u>L</u>	<u>P</u>	<u>L</u>	<u>L</u>
Kennel, noncommercial. <u>Noncommercial Kennel</u>	P	P	P	P	P	P	P
Libraries and museums. ³⁰ <u>Cultural Institution (Civic)</u>		P <u>L</u>				P ² <u>L</u>	P ² <u>L</u>
Private club or service organization. <u>Private Club, Service Organization (Civic)</u>	SE <u>C</u>	SE <u>C</u>	SE	SE ⁴⁸ <u>C</u>	SE <u>L</u>	SE ² <u>C</u>	SE ² <u>C</u>
Recreational or entertainment establishment, or commercial. <u>Recreation & Entertainment Facility Indoor Capacity up to 1,000/Outdoor Capacity up to 1,000/Major Capacity over 1,000 (Commercial)</u>	SE <u>C/C/</u>				SE <u>C</u>		
Riding stable, private. ¹⁷ <u>Equestrian Facility (Agricultural)</u>	<u>L</u>	<u>L</u>		<u>L</u>		P <u>L</u>	P <u>L</u>
Rifle, pistol, or skeet shooting range, outdoor. <u>Shooting Range Outdoor (Commercial)</u>	SE <u>C</u>	SE ² <u>C</u>	SE²	SE ⁴⁸ <u>C</u>	SE		
Swimming pool, community. <u>Swimming Pool (Community) (Civic)</u>	SE <u>C</u>	SE <u>C</u>	SE			SE ² <u>C</u>	SE ² <u>C</u>
Swimming pool, private. ¹⁶	P	P	P	P⁴⁸	P	P	P
Theater, legitimate. <u>Recreation & Entertainment Facility Indoor Capacity up to 1,000 (Commercial)</u>	SE <u>C</u>				SE <u>C</u>		
(j) Miscellaneous:							
Accessory buildings, structures and uses. ⁴⁷ <u>(Miscellaneous)</u>	P <u>L</u>	P <u>L</u>	P	P <u>L</u>	P <u>P</u>	P <u>L</u>	P <u>L</u>
Security pavilion. <u>(Miscellaneous)</u>	P ⁴³	P ⁴³	P⁴³	P ⁴³	P⁴³	P ⁴³	P ⁴³
Signs, in accordance with the provisions of Article 59-F. <u>Accessory buildings, structures and uses</u>	P <u>L</u>	P <u>L</u>	P	P <u>L</u>	P	P <u>L</u>	P <u>L</u>
Wildlife or game preserve ...	P	P	P	P	P		

1 Products of agriculture and agricultural processing may be sold from a farm if the products are produced on site. The sale from a farm of horticultural products grown primarily on site or, if grown off-site, are planted in the ground or in pots or beds for a period of time on not more than 2 acres or 20% of the site, whichever is less, is an accessory use to the farm. (Attached to Farm) [Sec. 3.2.6.A Farming- Defined in general](#)

2 This use or class of uses is not permitted in the portion of any cluster development regulated by section [59-C-9.52](#) or in any rural open space area regulated by section [59-C-9.57](#). (Attached to Equestrian facility , Abattoir , Agricultural Processing, Grain elevator, Manufacture of mulch and composting, Milk plant, Sawmill, Winery, Blacksmith, Christmas tree sales between December 5 and 25 , Country market , Farm market , Landscape contractor , Nursery, horticultural - retail , Nursery, horticultural - wholesale , Resource Production and Extraction, Residential , Airstrip, associated with farming operations , Helistop, Public utility buildings and structures , Radio or television broadcasting stations and towers , Telecommunications facility, Libraries and museums , Private club or service organization , Rifle, pistol, or skeet shooting range outdoor & Swimming pool.) [Sec. 7.3.4. Rural Open Space](#)

3 The delivery and installation of horticultural products grown on the farm that provides the delivery and installation service is an accessory use to the farm (Attached to Landscape contractor, Retail Nursery, Wholesale Nursery) [Sec. 3.2.6.A Farming- Defined in general](#)

. A landscape contractor or wholesale nursery in operation on October 22, 1985, is a conforming use and is not required to obtain a special exception, unless:

(a) The on-site operation is expanded or enlarged;

(b) The on-site operation is diversified to include retail facilities or a related use not in operation prior to October 22, 1985; or

(c) The operation is discontinued for a period of 6 months or more. A period of seasonal inactivity of up to 4 months does not constitute discontinuance. (Attached to Landscape contractor, Nursery horticultural – retail & Nursery horticultural – wholesale)

4 ~~A farrier whose operation is limited to shoeing horses or other equines is not a commercial blacksmith.~~ (Attached to Blacksmith)

5 The sale and display area must be located at least 25 feet from the paved edge of the roadway. There must be at least 3 off-street parking spaces. Firewood sold at a farm market must be cut and split on the farm or location where the wood is harvested. (Attached to Farm Market) [Sec. 3.2.11.D. Limited use standards for Farm Market](#)

6 Not permitted in a mobile home. (Attached to Accessory apartment & Registered living unit) [Sec 3.3.3.A and Sec. 3.3.3.B Accessory apartments definition- can only be in detached house](#)

7 As a special exception regulated by divisions 59-G-1 and 59-G-2, such a dwelling unit is excluded from the density calculations set forth in sections [59-C-9.41](#), title "Density in RDT Zone," and [59-C-9.6](#), title "Transfer of Density-Optional in RDT Zone." Once the property is subdivided, such a dwelling would no longer comply with the special exception regulations or with this exclusion. [Sec 3.3.2.E.2.a- Farm Tenant Dwelling](#) A special exception is not required for a dwelling that was a farm tenant dwelling in existence prior to June 1, 1958, provided, that the dwelling meets all applicable health and safety regulations. (Attached to Accessory apartment & Accessory dwelling)

8 A farm tenant dwelling, farm tenant mobile home, or guest house, as defined in section [59-A-2.1](#), title "Definitions," is excluded from the density calculations set forth in sections [59-C-9.41](#), title "Density in RDT Zone," and [59-C-9.6](#), title "Transfer of Density-Optional in RDT Zone," provided that these uses remain accessory to a farm. Once the property is subdivided, such dwellings would no longer comply with these definitions or with this

exclusion. Sec 3.3.2.E.2.a- Farm Tenant Dwelling. A farm tenant dwelling in existence prior to June 1, 1958, may be rented to a non-farm family without obtaining a special exception as an accessory dwelling, provided that the dwelling meets all applicable health and safety regulations. *Attached to Farm tenant dwelling, Farm tenant mobile home more than one but less than 4, Guest House, as accessory use*

~~9— Provided that such a dwelling has minimum dimensions of 24 feet by 40 feet, a gable roof, and is permanently affixed to a foundation supporting the load bearing framework of the mobile home and a foundation wall enclosing its entire perimeter, in compliance with the provisions of chapter 8 of this Code. Such a mobile home must have its wheels, axles, transportation light and removable towing apparatus removed. (Attached to Mobile home, double-wide)~~

10 Except as provided in sections 59-A-6.9 and 59-G-2.10.1 (*Attached to Cable communication system*) Sec. 3.5.2.A.2 Use standards for Cable Communications System

11 Provided it is a private helistop associated with a farm. (*Attached to Helistop*) Sec 3.2.11.B.1

12 Merchandise restricted as stated in section 59-G-2.05.1. (*Attached to Auction facility*) Sec 3.2.1. Definition and Conditional Use Standards for Agricultural Auction Facility

~~13 Limited to individual or small class instruction provided within a dwelling or an accessory use, such as a swimming pool, by a resident of the dwelling.~~ However, a private educational institution for persons with disabilities may be established subject to the special exception requirements of section 59-G-2.19, and provided (1) the site was previously used to provide educational services to persons with disabilities, (2) no more than 75 students are enrolled at any one time, (3) enrolled students are not boarded, and (4) improvements exist on the property (as of July 21, 2003) to accommodate the school's educational programs. A residence may be provided on site for use by a caretaker. Educational services to persons without disabilities are limited to enrichment activities related to providing educational services to persons with disabilities. A private educational institution lawfully existing prior to January 6, 1981, when the Rural Density Transfer Zone sectional map amendment was enacted is a conforming use, and may be extended, enlarged or modified by special exception subject to the provisions of section 59-G-2.19. "Educational Institutions, Private." (*Attached to Educational institution, private*)

14 As defined under "Day Care Facility for Senior Adults and Persons with Disabilities." (*Attached to Day care facility for not more than 4 senior adults and persons with disabilities*). Sec. 3.4.4.A Day Care Facility, Defined in General

15 Subject to the special exception standards for a group home, section 59-G-2.26. (*Attached to Group home, large*) Sec. 3.3.2.E.3.b Conditional Use standard for Residential Care Facility (9-16 persons)

~~16— For use of the property owner and nonpaying guests only. (Attached to hunting or fishing cabin, private and swimming pool, private)~~

~~17— Reserved. (Attached Riding stable, private.)~~

18 Not permitted in an accessory dwelling, farm tenant dwelling or mobile home. The owner must maintain a record of transient visitors and register the lodging with the Department. Minimum lot size for a lodging with more than 3 guest rooms is 2 acres. (*Attached to Bed-and-breakfast lodging with 3, 4 or 5 guest rooms*) Sec. 3.5.6.B. Definition and Use Standards for Bed and Breakfast

19 Provided the special exception is for re-use of an existing building and has a maximum lot size of 2 acres. (*Attached to Charitable and Philanthropic Institution*) Sec 3.4.2.B.a.i. Conditional use standard for Charitable and Philanthropic Institution

- 20 —~~In accordance with Executive Regulations and subject to the requirements enumerated in section 59-A-6.10. (Attached to Registered living Unit)~~
- 21 In accordance with section 59-G-2.29, title "Home Occupation, Major." Sec. 3.3.3. F.5.b Conditional Use Standards for Major Impact Home occupation and Sec. 3.3.3. E.3 Conditional Use Standards for Major Impact Home Health Practitioner A professional office for a resident of a dwelling for which a use-and-occupancy permit was issued prior to February 5, 1990, may be continued as a nonconforming use, as provided in division 59-G-4. Alternatively, an existing resident professional may register a home occupation or home health practitioner's office, in accordance with sections 59-A-3.4 and 59-A-6.1, or apply for a special exception, in accordance with section 59-G-2.29. *(Attached to Home health practitioner's office and Home occupation, major)*
- 22 In accordance with sections 59-A-3.4 and 59-A-6.1 *(Attached to Home health practitioner's office)* Sec. 3.3.3.E- Home Health Practitioner and Sec. 3.3.3.F- Home occupation, registered
- 23 There must be no more than 5 visits per week, no nonresident employees and no discernible adverse impact on the neighborhood. *(Attached to Home occupation, no impact)* Sec. 3.3.3.F.4.b. Limited use standards for Home Occupation (Low impact)
- 25 If an application was filed with the Board of Appeals prior to June 16, 1992. Any golf course approved by the Board of Appeals is not a non-conforming use and may be modified in accordance with Sec. 59-G-2.241. *Attached to Golf course*
- 26 In accordance with Section 59-A-6.13. *(Attached to Transitory use)* Sec. 3.5.15.C.2. Limited Use Standards for Transitory Use
- 27 Refer to Sec. 59-A-6.14. *(Attached to Rooftop mounted antennas and related unmanned equipment building, equipment cabinets, or equipment room)* Sec 3.5.14.F. Limited use standards for Wireless on Existing Structure
- 28 —~~Valid only for uses existing as of the date of placement in the zone or on a parcel adjoining I-1 zoned property devoted to a similar use at the time of placement in the zone. Expansion on such a parcel adjoining I-1 zoned property shall require that the entire site is covered by site plan review for both properties. (Attached to Contractors storage yard , Manufacture of light sheet metal products , Storage for recycling of buildings or construction materials , & Wood Product and furniture manufacturing)~~
- 29 —~~For existing residential structures as of the date of placement in the zone and in accordance with the special exception requirements of Section 59-G-2.38.1. (Attached to Office, general in the RS zone)~~
- 30 —~~Whenever main and accessory structures exceed an aggregate floor area of 5,000 square feet, development will be subject to site plan review under Division 59-D-3. All properties designated as resources in the Master Plan for Historic Preservation are excluded from the site plan review requirement. (Attached to Libraries and museums)~~
- 31 —~~May be permitted in an accessory building designated as historic on the Master Plan for Historic Preservation. (Attached to Bed-and-breakfast lodging with one or 2 guest rooms)~~
- 32 —~~A telecommunications facility is a permitted use if the height does not exceed the building height of the zone and the monopole is set back one foot for every foot of height from the property line. Attached to Telecommunications facility in RS) (Sec. 3.5.2.C.2.a.v.~~
- 33 A telecommunications facility is a permitted use up to 199 feet in height within an overhead transmission line right-of-way but must not be closer than 300 feet to any residence. *(Attached to Telecommunications facility)* Sec. 3.5.2.C.2.a.iv. Limited use standard for Telecommunications Tower

- 34 Not to be located in a townhouse unit or an attached unit. *(Attached to Group day care home)* [Sec. 3.4.4.D.2.a.i. Limited Use Standard for Group Day Care \(9-12 persons\)](#)
- 35 Subject to the special exception standards for a Nursing Home; and Domiciliary Care Home, section [59-G-2.37](#). *(Attached to Domiciliary care home for more than 16 residents and Nursing Home)* [Sec. 3.3.2.E.4.b. Conditional Use Standards for Residential Care Facilities \(Over 16 Persons\)](#)
- 36 Permitted by right as an accessory use to a farm. *(Attached to Agricultural processing and Grain Elevator)* [Sec. 3.2.6.A.1, Farming- Defined in general](#)
- 37 A milk plant and a milk parlor are permitted by right as an accessory use to a farm. *(Attached to Milk plant)* [Sec. 3.2.6.A.1, Farming- Defined in general](#)
- 38 Permitted by right provided no more than two public events are held per year. *(Attached to Winery)* [Sec. 3.2.10.B.1. Limited use standards for Winery](#)
- 39 Parking of motor vehicles is permitted in an historic district in accordance with the provisions of [Sec. 59-A-6.22](#). *(Attached to Parking of motor vehicles, off-street, in connection with commercial uses)* [Sec. 3.5.9.D.2. Use Standards for Surface Parking for Commercial Uses in a Historic District](#)
- 40 [If operated in conjunction with a cemetery established by special exception before \(ZTA effective date\) \[August 20, 2001\]](#). *(Attached to Funeral parlor or undertaking establishment)*
- 41 [Any riding stable, including buildings, show rings, paddocks, activities and events established in an agricultural zone before April 5, 2004 is a conforming use and may be modified, reconstructed, or enlarged in accordance with the standards in effect after April 5, 2004 except that any riding stable existing before April 5, 2004 must be in compliance with the nutrient management, water quality, and soil conservation standards of 59-C-9.31\(c\) no later than March 2, 2005.](#) *(Attached to Equestrian facility)*
- 42 Only for workers actively engaged on a full-time or part-time basis in managing or maintaining a lawful agricultural use that is under the control of the owner or operator of property on which the accessory dwelling is located. An accessory dwelling for use by agricultural workers is permitted in addition to a main dwelling. *(Attached to Accessory dwelling for agricultural workers)* [Sec. 3.3.3.D.1. Definition of Farm Tenant Dwelling](#)
- 43 In accordance with Section [59-A-6.17](#) *(Attached to Security pavilion)* [Sec. 3.7.4.B.2 Security Pavilion Use Standards](#)
- 44 Permitted only as part of a moderately-priced dwelling unit development. [Sec 3.3.1.C. 2. Limited use standard for Two-Unit Living](#) The maximum percentage of one-family semi-detached dwelling units in a subdivision is 30%. [Sec. 6.1.2.B. MPDU Optional Method- General Site and Building type mix](#) *(Attached to Dwellings, one-family semi-detached)* [\(Sec. 3.3.1.C\)](#)
- 45 [If established before April 11, 2005](#). *(Attached to Camp retreat, non-profit)*
- 46 Must not exceed 65 feet in height; however, a special exception for additional height may be granted, by the Board of Appeals if it can be demonstrated that the additional height is the minimum needed to engage in amateur radio communications under a license issued by the Federal Communications Commission. [Any amateur facility existing before December 26, 2005 that exceeds 65 feet in height is a conforming structure.](#) *(Attached to Amateur radio facility)* [3.5.14.A & 3.5.14.B. Amateur radio facility has been split into 2 uses \(under 65' and over 65'\)](#)
- 47 Except for a building accessory to an agricultural use, the footprint of an accessory building on a lot where the main building is a one-family detached residential dwelling must not exceed 50 percent of the footprint of the main building. [Sec. 3.7.1.B.1. Limited use standard for Accessory use, building or structure](#) [Any accessory building for](#)

which a building permit was issued before July 11, 2006 may continue as a conforming building under the standards in effect at the time the building permit was issued; however, in the event a building permit that was issued before July 11, 2006 is revoked, but subsequently approved, the accessory building must be in compliance with the standards in effect at the time of the subsequent approval. Any replacement or reconstruction of an accessory building constructed under a building permit issued before July 11, 2006 must comply with the standards in effect at the time the building is replaced or reconstructed. *(Attached to Accessory buildings, structures and uses)*

⁴⁸ If property is encumbered by a recorded transfer of developments rights easement, this use is prohibited. [See limited use conditions for all uses in AR](#)

However, any building existing on October 2, 2007 may be repaired or reconstructed if the floor area of the building is not increased and the use is not changed.

[Attached to Rock or stone quarry, as a temporary use \(Sec. 3.6.5\), Sand, gravel or clay pit, or extraction of other natural materials, as a temporary use \(Sec. 3.6.5\), Accessory apartment \(Sec. 3.3.3.A & 3.3.3.B\), Accessory dwelling \(Sec.3.3.3.D\), Bed-and-breakfast lodging with one or 2 guest rooms \(Sec. 3.5.6.B\), Bed-and-breakfast lodging with 3, 4 or 5 guest rooms \(Sec. 3.5.6.B\), Group home, small \(Sec. 3.3.2.E\), Group home, large \(Sec. 3.3.2.E\), Guest house, as accessory use \(Deleted\), Guest rooms, for not more than 2 roomers in any dwelling unit \(Sec. 3.3.1.B, 3.3.1.C, 3.3.1.D, & 3.3.1.E\), Mobile home, double-wide \(Sec. 3.3.1.B\), Registered living unit \(Sec. 3.3.3.A, & 3.3.3.B\), Antique shop \(Sec. 3.5.11.B\), Auction facility \(Sec. 3.2.1\), Farm machinery: sales, storage, or service & Farm supply: sales, storage, or service \(Sec. 3.2.5\), Transitory use \(Sec. 3.5.15.C\)](#)

⁴⁹ A resident of a lot or parcel at least 2 acres in size may raise, ride, and board horses for personal use. One horse is permitted for every 1 gross acre of the lot or parcel, up to a maximum of 5 horses. Any building or manure storage area must be located at least 100 feet from any existing dwelling on an adjacent tract of land. *(Attached to Equestrian facility in RNC)* [Sec 3.2.4.B. Limited use standards for Equestrian Facility](#)

⁵⁰ On any lot or parcel smaller than 2 acres in size but larger than .5 acres, not more than 3 light commercial vehicles and not more than one unoccupied recreational vehicle may be parked at any time. One additional recreational vehicle may be used on a lot or a parcel for dwelling purposes for not more than 3 days in any month. On any lot or parcel equal to or smaller than .5 acres in size, not more than one light commercial vehicle and not more than one unoccupied recreational vehicle may be parked at any time. *(Attached to Parking of motor vehicles, other than heavy commercial vehicles, off-street, in connection with any use permitted)* [Sec 7.2.6.N. Commercial Vehicle Parking](#)

59-C-9.31. Equestrian facility standards as a permitted use in the agricultural zones. [Sec 3.2.4.B.1-Limited Use Standards for Equestrian Facility](#)

(a) Equestrian events:

(1) Any equestrian event that does not involve more than 25 participants and spectators may take place on any site that has at least 18 acres.

(2) An informal equestrian event may take place on Saturdays, Sundays and Holidays at any time on any site that has at least 18 acres. An informal equestrian event may take place no more than 6 weekdays in any calendar month on at least 18 acres.

(3) No more than 7 minor equestrian events may take place each year on any site that has at least 25 acres.

(4) No more than 3 major equestrian events may take place each year on any site that has at least 75 acres and that has direct access to a roadway with an arterial or higher classification. A permit must be obtained from the Department of Permitting Services for each major event. Each major event must not take place for more than 3 consecutive days. The applicant must specify the nature of the event, the anticipated attendance of spectators and

participants, the number of days the event will take place, the hours during which the event will take place, the area to be used for parking, any traffic control measures intended to be put in place, and any other information determined by the Department of Permitting Services to be relevant to the issuance of the permit. A fee for issuance of the permit may be set by the Department.

(5) A maximum of 10 major and minor equestrian events may take place each year at any equestrian facility.

(6) An equestrian event must not be held on a site that does not have the minimum acreage specified in this subsection.

(b) Minimum number of gross acres per horse:

(1) For 1-2 horses, 2 acres;

(2) For 3-10 horses, one acre per horse;

(3) For more than 10 horses, an additional one-half acre per horse.

(c) Plan Approvals and Compliance.

Any equestrian facility that keeps or boards more than 10 horses must meet all nutrient management, water quality and soil conservation standards of the County and State. A nutrient management plan prepared by a qualified professional and a soil conservation and water quality plan prepared by the Montgomery Soil Conservation District Board must be submitted through a letter of certification by the landowner to the Department of Permitting Services, or other relevant agency. Enforcement of the nutrient management, water quality, and soil conservation plans is the responsibility of the State of Maryland. The land owner must obtain all plans within one year after commencement of operations. Any equestrian facility existing before April 5, 2004 must comply with the requirements of this subsection no later than March 2, 2005.

(d) Setbacks.

Each building, show ring, paddock, outdoor area, and manure storage area must be located at least 100 feet from any existing dwelling on an adjacent tract of land.

(e) Noise Levels.

Amplified sound must meet all requirements of Chapter 31B.

(f) Lighting.

Any outdoor arena lighting must direct light downward using full cutoff fixtures, not produce any glare or direct light onto nearby properties, and not be illuminated after 10 p.m., except for an equestrian event which must not be illuminated after 9 p.m. Sunday through Thursday. A lighting plan that establishes compliance with this provision must be submitted to Planning Board staff for approval before an electrical permit may be issued.

(g) Hours an equestrian event may operate.

An equestrian event may operate only from 6 a.m. to 9 p.m. Sunday through Thursday and from 6 a.m. to 10 p.m. Friday and Saturday.

(h) An equestrian facility special exception may be filed with the Board of Appeals to deviate from any permitted use standard regarding: (1) number of participants and spectators, (2) number of events each year, (3) event acreage, (4) hours of operation, and (5) a road classification requirement. An equestrian facility special exception must be renewed every five years at which time the Board must evaluate the effectiveness of the terms and conditions of the original special exception grant.

Sec. 59-C-9.4. Development standards.

The following requirements apply in all cases, except as specified in the optional standards for cluster development set forth in sections 59-C-9.5 and [59-C-9.57](#) and the exemption provisions of section [59-C-9.7](#).

59-C-9.41. Density in RDT zone.

Only one one-family dwelling unit per 25 acres is permitted. (See section [59-C-9.6](#) for permitted transferable density.) [Sec 4.2.6.A- AR Zone, Standard Method Development Standards](#). The following dwelling units on land in the RDT zone are excluded from this calculation, provided that the use remains accessory to a farm. Once the property is subdivided, the dwelling is not excluded: [Sec 4.2.3. Special Regulations for the Transfer of Density](#)

- (a) A farm tenant dwelling, farm tenant mobile home or guest house as defined in section [59-A-2.1](#), title "Definitions."
- (b) An accessory apartment or accessory dwelling regulated by the special exception provisions of division 59-G-1 and 59-G-2.

59-C-9.41.1. Child Lots in the RDT Zone. [Sec. 4.2.4.- Special Regulations for Child Lots-](#)

(a) Applicability. A child lot above the density of one one-family dwelling unit per 25 acres is allowed in the RDT zone only if the following requirements are satisfied.

- (1) The property owner must have:
 - (A) recorded title to the property before January 7, 1981;
 - (B) personally applied for approval to create the lot; and
 - (C) retained a development right for each lot.

(2) The Planning Board must not approve more than one child lot for each child of the property owner, regardless of the number of properties owned.

(3) Except as provided in subsection [59-C-9.41.1\(a\)\(4\)](#), a maximum of 3 child lots can be established for a qualifying property owner under subsection (1): [Sec 4.2.6.B- Child Lots in AR Standard Method Development](#)

- (A) one child lot is allowed on a tract of land of at least 25 acres;
- (B) two child lots are allowed on a tract of land of at least 70 acres;
- (C) three child lots are allowed on a tract of land of at least 120 acres.

(4) The Planning Board may approve up to two additional child lots above the maximum number allowed in Section [59-C-9.41.1\(C\)\(3\)](#) if the additional child lot: [Sec. 4.2.4.- Special Regulations for Child Lots](#)

- (A) is not encumbered by a State or County Agricultural Land Preservation Easement;

Sec. 4.2.4. Special Regulations for Child Lots

(B) meets the applicable requirements in Section 59-C-9.41.1;

(C) is on the landowner's only real property holdings in the County; and

(D) the tract of land for four child lots is at least 170 acres and the tract of land for five total child lots is at least 220 acres.

In determining whether to approve the additional child lots, the Planning Board must consider any recommendation from the Agricultural Preservation Advisory Board (APAB) about whether the additional lot will promote the continuation of the family farm unit or otherwise meet the purposes of the RDT zone.

(5) A lot created for a child must be no larger than the minimum area necessary for approval of well and septic. The Planning Board may approve a lot larger than 3 acres only if an on-site well and septic system is not feasible and the lot cannot be served by a septic easement. The area of the driveway stem on a flag lot must not be included in the maximum area limit.

(6) When a building permit application is initially filed, the child for whom the lot is created must be the listed owner of the lot in the County land records.

(b) Building Permit Restricted. A building permit for a one-family dwelling unit on a child lot must be issued only to:

- (1) a child of the property owner;
- (2) the spouse of a child of the property owner;
- (3) a contractor for a child of the property owner; or
- (4) a contractor for the spouse of a child of the property owner.

(c) Transfer restricted. Except as provided in subsections (c)(1) and (c)(2), ownership of a child lot must not be transferred or leased within 5 years of the date of the Department of Permitting Services' final inspection of the dwelling unit.

(1) The owner of the child lot may only lease the lot to an immediate family member.

(2) Ownership of a child lot may be transferred if the Planning Board finds a hardship after the date of final inspection, such as a death of the child or a bona fide foreclosure of the mortgage or deed of trust.

(d) Penalty for Violations. Any violation of this subsection is subject to the penalty and enforcement provisions in Section 59-A-1.3. Every day a transfer restriction is violated is a new violation.

(e) Deed Restrictions and Certificates of Compliance.

(1) Any deed or other instrument conveying title from the owner of the property to a child must be signed by both the grantor and the grantee.

(2) In any deed or other instrument conveying title from the owner of the property to a child, the grantor must clearly and conspicuously state, and the grantee must clearly and conspicuously acknowledge, that the conveyed property is a child lot subject to the requirements of subsection (c).

Sec. 4.2.4. Special Regulations for Child Lots

(3) If the Planning Director determines that a child lot may be transferred under subsection (c)(2), the Director must issue a certificate of compliance to the owner of the child lot in a form appropriate for recordation in the land records. The certificate is conclusive evidence of the owner’s compliance with subsection (c).

(f) Provisions for existing child lots and preliminary plan applications for child lots filed before October 1, 2010.

(1) A child lot is permitted on a tract of land of any size where the child lot has an existing dwelling unit and is either identified on a plat recorded before October 1, 2010 or held pursuant to a deed that indicates conveyance from parent to child and was recorded before October 1, 2010, subject to the following provisions:

- (A) one lot for every 25 acres plus one additional lot for each child lot;
- (B) a child lot of any size;
- (C) no limitations on ownership.

(2) A child lot is permitted on a tract of land of any size with a preliminary plan approved before October 1, 2010, subject to the ownership and transfer provisions of Section 59-C-9.41.1, and may be identified on a plat recorded among the land records of the County using the following provisions:

- (A) one lot for every 25 acres plus one additional lot for each child lot;
- (B) a child lot of any size.

(3) A child lot is permitted on a tract of land of any size with a preliminary plan application filed, but not approved, before October 1, 2010 and must satisfy all of the provisions of Section 59-C-9.41.1, except it may be approved with a density of one lot for every 25 acres plus one additional lot for each child lot.

(4) A child lot previously recorded by plat is exempt from the limit on number of child lots and the lot area, and size limits of Section 59-C-9.41.1, provided that the density does not exceed one lot for every 25 acres plus one additional lot for each child lot.

<u>Sec 4.2.5- Sec. 4.3.5 Standard Method Development in Agricultural and Rural Residential Zones</u>	Rural	RC	LDRC	RDT <u>AR</u>	RS <u>IM</u>	RNC	RNC/ TDR <u>RNC</u> <u>w/TDR</u> <u>overlay</u>
59-C-9.42. Minimum net lot area.							
No main building, together with its accessory buildings, shall be located on a lot having a net area of less than	5 acres	5 acres	5 acres	40,000 sq. ft.	2 acres ⁴	25,000 sq. ft.	25,000 sq. ft.
59-C-9.43. Minimum lot width (in feet):							
(a) Measured along front building line	300	300	300	125	125	100	100
(b) Measured along front street line	25	300	300	25	300 ⁷	25	25

59-C-9.44. Yard requirements for a main building (in feet):							
(a) Minimum setback from street. The front building line must be parallel to the front lot line or proposed street line and set back from the lot or street line at least	50	50 ¹	50¹	50 ¹	50 ³	40	40
(b) Minimum side yard, 2 required:							
(1) One side	20	20	20	20	20	15	15
(2) Sum of both sides	40	40	40	40	40		
(3) Abutting a public street <u>Side Street</u>	50	50 ¹	50¹	50 ¹	50 ³	50 ¹	50 ¹
(c) Minimum rear yard	35	35	35	35	35 ³	35	35
59-C-9.45. Yard requirements for an accessory building or structure (in feet).							
(a) In the Rural and Rural Cluster zone, an accessory building on a residential lot must be located in the rear yard and Sec. 4.3.4.C & Sec. 4.3.5.C occupy no more than 25 percent thereof. In all 7 zones, it must be set back at least as follows:							
(1) From the front lot line or proposed street line	80	80	80	(see note 1)	80	80	80
(2) From the side lot line:							
(A) Of an interior lot	15	15	15	15	15	15	15
(B) Of a lot abutting a public street	50 ¹	50 ¹	50¹	50 ¹	50 ¹	50	50
(3) From a rear lot line	10 <u>15'</u>	10 <u>15'</u>	10	10 <u>15</u>	10 ³	10 <u>15</u>	10
(b) Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be located at least 25 feet from a lot line and at least 100 feet from dwelling on another lot or parcel.							
(c) In the zones indicated thus (*), any accessory building or structure on a lot or tract adjoining a national historical park must be located at least 200 feet from the national historical park <u>Sec.4.3.4.C, Sec.4.3.5.C, Sec. 4.3.6.C</u> unless the accessory structure on the lot or tract is exempted under Sec. 59-B-2.1 ⁶ . <u>7.5.3.B.5. Fences and Walls.</u>	*	*	*		*	*	*

59-C-9.46. Maximum Lot Coverage.							
No more than this percentage of the net lot area may be covered by buildings, including accessory buildings. ²	10	10	40	10	10	10	10
59-C-9.47. Maximum building height, except that there is no height limit for agricultural buildings (in feet)	50	50	50	50	50	35	35
59-C-9.48. Additional Development Requirements							
In the zones indicated thus (*), moderately priced dwelling units are required in accordance with the provisions of Chapter 25A and Section 59-C-9.57.						5	5

1 This setback must consist of any scenic setback indicated on an approved and adopted master plan or 50 feet, whichever is greater. [Sec 4.2.5- Special Regulations for Scenic Setbacks in AR and Sec. 4.3.3-Special Regulations for Scenic Setbacks in Rural Residential Zones](#)

2 On a lot or parcel where agricultural products are grown predominantly in greenhouses, a maximum lot coverage of 40 percent is permitted, subject to the following provisions: [Sec. 4.2.6.B- AR Development Standards-Specification for coverage](#)

- (a) Any increase above 10 percent must consist entirely of greenhouse area.
- (b) The plan receives site plan approval as provided in division 59-D-3.

~~3 This minimum setback may be increased at the time of site plan review in accordance with 59-D-3 in order to protect or enhance the open space on the property. (Attached to standards in RS zone)~~

~~4 Any lot smaller than two acres, created by deed and existing at the date of inclusion in the zone may be created as a record lot. A record lot may also be created through the replatting of two or more otherwise substandard lots. Any lawfully constructed structure on such lot may continue as a conforming structure; however additions or structural alterations must conform to the setback, height, floor area ratio, and green area requirements for the Rural Service zone. Any new or replacement structures proposed for such a lot must conform to the setback, height, floor area ratio, and open space requirements for the Rural Service zone.~~

5 Required only for optional method of development that is served by public sewer service and where designated for sewer service in the applicable master plan. Any residential development that does not meet the requirements of Chapter 25A for which a preliminary plan of subdivision was approved before April 1, 2005 is a conforming use and may continue in accordance with the standards in effect before April 1, 2005.

6 Any accessory structure lawfully existing before July 3, 2007 and located less than 200 feet from a national historical park is a conforming structure and may be repaired or reconstructed under the standards in effect before July 3, 2007.

7 A minimum street frontage is not required if the lot or parcel:

- 1) was created before the application of the RS zone to the lot or parcel; and

2) has not changed in size or configuration by deed after the application of the RS zone to the lot or parcel.

Sec. 59-C-9.49. Methods of Development — Transferable development rights zones.

~~—(a)— **Location.** Land must not be classified in any transferable development rights zone unless recommended on an approved and adopted master plan or sector plan.~~

59-C-9.49.1. Methods of Development. Sec. 4.8.6 TDR Overlay zone

The following methods of development are possible in a TDR zone:

(a) **Standard method of development.** Development under the standard method for a TDR zone must comply with the requirements for development and density limitations contained in the corresponding zone as identified in 59-C-9.4. In addition, standard method development may be approved under either the cluster development procedures of 59-C-1.5 or the procedures for development including moderately priced dwelling units, as contained in 59-C-1.6, if the property satisfied the minimum requirements for these development options.

(b) **Optional method of development.** Under the optional method of development for a TDR zone, a greater density may be permitted up to the maximum density established under the development standards of 59-C-9.4 for the zone, and development must conform to the special regulations for an optional method development project using transferable development rights under 59-C-9.4. An optional method of development project must comply with the density, numerical limitations, and other guidelines contained in the applicable master plan approved by the district council.

Sec. 59-C-9.5. Cluster development--Option in Rural Cluster zone ~~and Low Density Rural Cluster zone.~~ Div 6.2

59-C-9.51. Purpose. Sec 6.2.1

The purpose of the cluster method of development is to provide greater flexibility in achieving a compatible mixture of agricultural and residential uses and to protect scenic and environmentally sensitive areas without jeopardizing farming or other agricultural use on a portion of the property or on adjacent or nearby properties.

59-C-9.52. Intent.

In order to accomplish the purpose of rural cluster development, the intent of this method is that at least 60 percent of the property must normally be reserved for open space Sec. 6.2.3.A.3 Coverage or for the following classes of uses stated in section 59-C-9.3. The exceptions noted are not permitted and are excluded from this area. Sec 7.3.4 Rural Open Space

- (a) Agricultural.
- (b) Transportation, communication and utilities; except:
 - (1) Airstrip associated with a farm;
 - (2) Helistop; and
 - (3) Radio or television broadcasting station or tower.
- (c) Cultural, entertainment and recreational, except outdoor rifle, pistol, or skeet shooting range.

- (d) Miscellaneous.

The following classes of uses are not permitted in this reserved area. The exceptions noted are not excluded from this area; they are permitted by right or by special exception, as stated in section 59-C-9.3.

- (a) Agricultural-industrial, except winery;
- (b) Agricultural-commercial, except country market and farm market;
- (c) Resource production and extraction;
- (d) Residential, except detached dwelling in existence prior to approval of the rural cluster subdivision;
- (e) Commercial; and
- (f) Services, except:
 - (1) Private educational institution; and
 - (2) Professional office for a resident of a dwelling in existence prior to approval of the rural cluster subdivision.

No more than 40 percent of the property can normally be used for residential cluster development, except that the planning board may approve a plan of subdivision for cluster development that includes a higher percentage of residential development if it can be demonstrated that such a plan would better accomplish the purposes of the zone than would strict adherence to the 40 percent standard. Such a plan must also be in accordance with the guidelines stated in section 59-C-9.53 below. [Sec. 6.2.3.A](#)

59-C-9.53. Guidelines. [Sec. 7.3.4.B. Rural Open Space Design Regulations](#)

The following guidelines are in addition to those provided in section 50-39 of the subdivision regulations and apply to all cluster development in this zone:

- (a) The plan of cluster development must locate and arrange the residential development so as to protect, to the maximum extent reasonable, that portion of the tract appropriate for open space, farming or other permissible uses listed in section 59-C-9.52, above.
- (b) The plan of cluster development must indicate an arrangement of residential development so as to reduce as much as possible any nuisance, jeopardy, or conflict between the residential and the agricultural uses both within the tract and in relation to adjoining or nearby tracts and to demonstrate the compatibility of the proposed cluster plan with existing development.
- (c) The residential portion of the plan of cluster development must be so laid out, and protected during construction, as to remain as harmonious as possible with the natural environment, minimizing as much as possible the clearing of trees, grading of earth, disturbing of streams, and other similar dislocations of the natural environment.
- (d) The plan of cluster development must provide that, if any area is reserved for open space in accordance with the provisions of section 59-C-9.52, above, it may be recorded as either:
 - (1) A parcel for common open space;

(2) An outlet; or

(3) An open space easement on a residential lot, provided that the area is clearly delineated and its reservation as open space is clearly stated on the record plat in the land records of Montgomery County.

(e) The minimum size of a farm in the area reserved for farming or other uses, as provided in section 59-C-9.52 above, must be 25 acres unless the planning board finds that a smaller size would better implement the purposes of the zone and the guidelines of this section.

(f) The plan of cluster development must show how scenic vistas are being preserved or enhanced, and reflect an arrangement which has considered the visual impact of the residential development on such vistas. Sec. 6.2.1.E

(g) The planning board may refuse to approve the cluster method or a plan of cluster development if in its judgment:

(1) Significant agricultural, farming, or similar activity would be jeopardized unduly through development under the cluster method;

(2) The natural integrity of environmentally sensitive areas would be threatened due to the cluster development; or

(3) Significant scenic vistas would be lost, obliterated, or substantially diminished in value due to the cluster development.

59-C-9.54. Development standards Div 6.2.3 and Div 6.2.4- Cluster Development in RC zone

The density under the cluster development option must not exceed one unit per 5 acres.

(a) **Net lot area.** Any main building hereafter erected, together with its accessory buildings, must be located on a lot having a net area of at least 40,000 square feet.

(b) **Lot coverage, percentage of.** A maximum of 10 percent of the net area of the lot is to be covered by buildings, including accessory buildings.

(c) **Yard, front.** Each lot must have a front building line at least 50 feet from ~~and parallel to~~ the front lot line or a proposed front street line, if such has been established within the lot, or such additional setback as is indicated as a scenic setback in an approved and adopted master plan.

(d) **Yard, side.** Each lot must have 2 side yards, ~~the sum of which must be 35 feet~~. Each side yard must be at least 17 feet in width, except that the width of a side yard which abuts a public street must be calculated in the same manner as a front yard.

(e) **Yard, rear.** Each lot must have a rear yard at least 35 feet in depth.

(f) For accessory building setbacks, see section 59-C-9.45.

(g) **Lot width at front building line.** Each lot must have a width of at least 125 feet measured along the front building line.

(h) **Lot width at front street line.** Each lot must have a width of at least 25 feet measured along the front street line.

(i) **Building height limit.** A building must not exceed a height of 50 feet except that there is no height limit for agricultural buildings.

59-C-9.55. Special exception uses.

~~In addition to the usual special exception provisions of divisions 59-G-1 and 59-G-2, the following additional standards and requirements must apply to applications for special exception uses in the nonresidential portion of a rural cluster development regulated by section 59-C-9.52 above:~~

~~—(a)— Particular attention must be given to the purpose, intent, and guidelines for the cluster development option as specified in sections 59-C-9.51, 59-C-9.52 and 59-C-9.53. The board of appeals must determine that the use will not adversely affect, jeopardize, impair, or diminish:~~

~~—(1)— Significant agricultural, farming or similar activity on the property or adjacent properties;~~

~~—(2)— The natural integrity of environmentally sensitive areas; and~~

~~—(3)— Significant scenic vistas.~~

~~—(b)— Special exception uses within the open space area must have access to a primary road or road of higher classification.~~

~~—(c)— Special exception uses must not normally adjoin land classified in the Rural Density Transfer Zone or other land that is primarily in agricultural use. The following uses or classes of uses may, however, be allowed to adjoin agricultural land:~~

~~—(1)— Agricultural;~~

~~—(2)— Transportation, communication and utilities, except those uses prohibited by section 59-C-9.52;~~

~~—(3)— Winery;~~

~~—(4)— Country market; and~~

~~—(5)— Riding stable.~~

~~—(d)— Buildings in connection with special exception uses may be located in the open space area of the cluster development only if such location will:~~

~~—(1)— Achieve greater compatibility with adjacent properties and any residential uses of the cluster development;~~

~~—(2)— Assure more sensitive attention to environmental concerns; and~~

~~—(3)— Maintain the open space character of the entire cluster.~~

~~—Such buildings are not permitted in the open space area of a previously recorded subdivision, unless the recorded subdivision is resubdivided.~~

59-C-9.56. Site plan requirement for low density rural cluster development zone.

~~The procedure for site plan approval in the Low Density Rural Cluster Development Zone is set forth in division 59-D-3.~~

59-C-9.57. Special regulations for development in the Rural Neighborhood Cluster zone.

59-C-9.571. Purpose.

The cluster method of development is intended to preserve large areas of contiguous rural open space, consistent with the recommendations and guidelines of the applicable master or sector plan. Cluster development is required under both the standard and optional methods of development. Cluster development requires the setting aside of rural open space. [Sec. 2.2.1.C. Intent Statement for RNC zone](#)

Under the optional method of development the maximum development unit density allowed may be increased to accommodate the construction of Moderately Priced Dwelling Units in accordance with Chapter 25A. [Sec. 6.1.2.A](#)

59-C-9.572. Rural Open Space [Sec 7.3.4 Rural Open Space](#)

Rural open space is land that is managed, as described in Section [59-C-9.574\(g\)\(3\)](#), or is unmanaged, which means that it is returning to its natural state without human intervention. Contiguous rural open space shares an extended boundary with a residential cluster neighborhood. The open space may preserve sensitive natural resources, other sensitive areas and associated habitat.

Recreational facilities in the rural open space are limited to trails and related amenities or other facilities recommended in the master plan. The following classes of uses are not permitted in the rural open space area. The exceptions noted in subsections (d) and (f) are not excluded from this area; they are permitted by right or special exception, as stated in section [59-C-9.3](#):

- (a) Agricultural-industrial;
- (b) Agricultural-commercial;
- (c) Resource production and extraction;
- (d) Residential, with the following exceptions:
 - a one-family detached dwelling located on a lot, 10 acres or greater in size, that contributes to the overall total of rural open space, and is a logical extension of the existing open space area;
 - accessory apartment that is part of a one-family detached dwelling located on a lot, 10 acres or greater in size, that contributes to the overall total of rural open space;
 - a farm tenant dwelling in existence prior to application of the Rural Neighborhood Cluster zone, or a structure converted to a farm tenant dwelling included as part of a historic site designated in the Historic Master Plan;
 - a one family semidetached dwelling and townhouse as part of a moderately-priced dwelling unit development;
- (e) Commercial; and
- (f) Services, except a home occupation associated with an otherwise permitted residential use.

59-C-9.573. Standard method of development.

(a) The density under the standard method of development must not exceed one dwelling per 5 acres of gross tract area. [Sec 4.3.6 RNC Zone Standard Method Development Standards](#)

(b) In the Rural Neighborhood Cluster zone, rural open space is defined as land contiguous to the periphery of the residential portion of a rural neighborhood which is subject to an instrument assuring its preservation as permanent open space. [Sec 7.3.4.A.3 Rural Open Space- General Regulations- Definition](#)

(c) The following guidelines ~~are in addition to those provided in section 50-39 of the subdivision regulations and~~ apply to all cluster development in this zone: [Sec. 7.3.4.B Design Regulations for Rural open space](#)

(1) The development must be clustered so as to maximize that portion of the tract appropriate for open space, farming or other permissible uses listed in section [59-C-9.52](#), above.

(2) The cluster development must be designed so as to remain as harmonious as possible with the natural environment, minimizing as much as possible the clearing of trees, grading of earth, disturbing of streams, and other similar dislocations of the natural environment.

(3) Rural open space: A minimum of 60 percent of the property must be reserved for contiguous rural open space, [Sec 4.6.3 Detached House](#) consistent with the recommendations and guidelines set forth in the applicable master or sector plan. All land in the rural open space area must be preserved in perpetuity, either by dedication as parkland or by application of an easement or covenant in a recordable form approved by the Planning Board. The rural open space may be recorded as either: [Sec. 7.3.4.B.1.c](#)

(A) A parcel for common open space;

(B) An outlot; or

(C) An open space easement on a residential lot, provided that the area is clearly delineated and its reservation as open space is clearly stated on the record plat in the land records of Montgomery County.

(4) No development under the standard method is to be served by public sewer and water unless recommended in the relevant master plan. [Sec. 4.3.2.C Rural Residential Zones-Public Water and Sewer](#)

59-C-9.574. Optional method of development. [Div 6.1 MPDU Optional Method](#)

The density of development, including the provision of Moderately Dwelling Units in accordance with Chapter 25A, must not exceed 1.22 dwelling units per gross acre. ~~Sec 6.1.2.A2-The density must conform to the recommendations and guidelines of the applicable master or sector plan.~~ In such cases, the following development standards apply:

(a) Minimum area of development: 10 acres, except that the Planning Board may waive this requirement where the property abuts an existing property developed under the provisions of this section, and the resulting development is a logical extension of the existing development. [Sec 6.1.2.A1](#)

(b) Diversity of Lot Sizes: Under the optional method, a diversity of lot sizes is required for developments. The Planning Board must evaluate the range of lot sizes provided and insure that a proposed development is compatible with existing development on adjoining properties and consistent with the purpose and intent of the zone. [Sec. 6.1.1.E](#)

(c) Diversity of House Sizes: The Planning Board should encourage diversity of house sizes where such diversity would be consistent with neighboring communities. [Sec. 6.1.1.E](#)

(d) Development standards: The standard method requirements of section [59-C-9.4](#) do not apply: [Sec. 6.1.3 Detached house development standards, Sec. 6.1.4 Duplex Development Standards, 6.1.5. Townhouse Development Standards](#)

(i) Minimum lot area—4,000 sq.ft. for one-family detached units; 3,500 sq.ft. for one-family semi-detached units.

(ii) Minimum setback from the street—15 feet.

(iii) Yard requirements (in feet). A side yard, if provided, must be at least 8 feet. For a side or rear yard that abuts a lot that is not developed under the optional method of this section, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than 30 feet.

(iv) Minimum lot width for a one family detached dwelling unit at the existing or proposed street line—25 feet.

(v) Maximum building height—35 feet.

(vi) Maximum lot coverage for a one family detached dwelling unit—35 percent.

(vii) The rear and side yard setbacks for accessory structures must be consistent with the requirements in the R-60 Zone, 5 feet for rear and side yard setbacks and 60 feet from the street.

(e) Common open space: Common open space within the residential neighborhood is required for all development ~~of 10 dwellings or more. Such open space, if provided, must not be applied towards the rural open space requirement.~~ If provided, common open space should be configured with the following guidelines:

[Sec. 7.3.5. Common Outdoor Area Design Regulations](#)

- Common open space is intended for common use by the residents of the neighborhood and may be either located in a central position in the neighborhood bordered by streets and/or building lots; or configured as an open space bordered by streets on all sides and generally intended for a smaller neighborhood. The common open space may contain surface features such as storm water management facilities or limited parking areas.

~~—(f) Lots fronting on private streets. Within the Rural Neighborhood Cluster zone lots may front on a private street if the Planning Board finds, as part of the cluster subdivision plan approval, that the private street:~~

~~—(1) provides safe and adequate access;~~

~~—(2) has sufficient width to accommodate the dwelling units proposed;~~

~~—(3) will better advance the goal of preserving rural open space and the rural character than would a public road;~~

~~—(4) has proper drainage.~~

~~—Each private road must comply with the requirements of subsection [59 C 7.234](#) of the zoning ordinance and section 50-25(h) of the subdivision regulations pertaining to private roads.~~

(g) Lots developed under the optional method must be connected to a community water and sewerage system, unless it can be demonstrated at the time of subdivision that a limited number of lots on a private well and septic facility within the cluster will provide a more beneficial subdivision design because of environmental or compatibility reasons. [Sec. 6.1.1.E](#)

(h) Rural open space design guidelines. [Sec. 7.3.4. Rural Open Space](#)

(1) Rural open space should be a contiguous area and be located and designed to:

(A) Protect rural features and other sensitive areas identified in the applicable master or sector plan;

(B) Maximize common boundaries with rural open space on adjacent tracts where recommended in the applicable master or sector plan, or as otherwise required by the Planning Board.

(2) Rural open space must comprise a sizeable contiguous area must be within a range of 65 percent to 85 percent of the tract area and must be consistent with the recommendations and guidelines of the applicable master plan. When a property includes rights-of-way for roads classified as major highways or freeways, rural open space is calculated on the net tract area by deducting those rights-of-way from the gross area of the property. The Planning Board may approve a minor variation in the master plan-recommended rural open space if the Board finds that the variation would retain both the quality and character of the open space as set forth in the guidelines of the master plan.

(3) Rural open space may be managed and maintained but may be modified to improve its appearance, function or overall condition by using the following techniques:

(A) Reforestation

(B) Woodland management

(C) Meadow management

(D) Stream bank protection

(E) Non-structural stormwater best management practices as defined by the most recent edition of the Maryland Stormwater Design Manual adopted for use by Montgomery County.

- The Planning Board may, at its discretion, allow structural stormwater management facilities in the rural open space if the location and appearance of any facility is consistent with the general intent of the RNC zone, and with the policy and guidance of the relevant master plan for use of the open space.

(F) Wetlands management

(G) Agricultural management

(4) All publicly held or privately held land in the rural open space area must be preserved in perpetuity as rural open space by application of an easement or covenant in a recordable form approved by the Planning Board. The easement or covenant must restrict uses in the rural open space area to those uses allowed under [59-C-9.572](#), provide for the management of any natural or agricultural features in accordance with the approved site plan, and prohibit any development or subdivision within the rural open space area not expressly authorized. [Sec. 7.3.4.B.1.c.i](#)

~~A developed lot intended to provide any portion of the rural open space requirement must be a minimum of 10 acres, and a substantial majority of the lot must be encumbered by the instrument regulating the rural open space.~~

59-C-9.575. Off-street parking.

Parking must be provided in accordance with the provisions of Division 59-E except as follows: ~~All parking must be located on the same lot as the use with which it is associated.~~

59-C-9.576. Site plan review. Sec. 6.1.1.A. MPDU Optional Method -Development Approval Procedure

Site plan approval is required under the optional method of the Rural Neighborhood Zone as set forth in Division 59-D-3.

59-C-9.58. Special regulations for development in the Rural Neighborhood Cluster/Transferable Development Rights (RNC/TDR) Zone.

59-C-9.581. Purpose. Sec. 2.2.1.C. Intent Statement for RNC zone

The purpose of this zone is as described in 59-C-9.571 for the Rural Neighborhood Cluster zone.

59-C-9.582. Rural open space. Sec. 7.3.4. Rural Open Space

Rural open space is land that is managed or unmanaged as described in 59-C-9.572 for the Rural Neighborhood Cluster Zone.

59-C-9.583. Standard method of development. Sec. 4.8.4. TDR Overlay Zone

Development under the standard method must comply with 59-C-9.573 of the Rural Neighborhood Cluster Zone.

59-C-9.584. Optional method of development using transferable development rights. Div. 6.3. TDR Overlay

59-C-9.584.1. Applicability. The following procedure and regulations apply to the transfer of development rights from land classified in the Rural Density Transfer (RDT) Zone to land classified in the RNC/TDR Zone. A subdivision approved for development under the optional method must not exceed the maximum density permitted in the RNC/TDR Zone and must conform to the guidelines contained in the applicable master plan. Any increase in density above the density applicable to the standard method of development must be based on a ratio of one single-family dwelling unit for each transferable development right (TDR). 6.3.1.A. Applicability

59-C-9.584.2. General Provisions. Sec 6.3.1.C. TDR Overlay- Recording of Development Right

(a) A development right must be created, transferred and extinguished only by means of documents, including an easement and appropriate releases, in a recordable form approved by the planning board. The easement must limit the future construction of one-family dwellings on a property in the RDT zone to the total number of development rights established by the zoning of the property minus all development rights previously transferred in

accordance with this section, the number of development rights to be transferred by the instant transaction, and the number of existing one-family detached dwellings on the property.

(b) The transfer of development rights must be recorded among the land records of Montgomery County, Maryland.

Sec. 6.3.1.B, TDR Overlay- General Provisions and Sec. 6.3.1. G. TDR Overlay- Development with MPDUs

(c) The development density of a property under the TDR optional method may not be increased above the maximum density permitted in the zone nor beyond the density or number of dwelling units recommended for such property by the land use plan of the applicable master plan approved by the district council, except as required to provide MPDU's.

(d) A property developed with the transfer of development rights must conform to the requirements of chapter 25A of the Montgomery County Code requiring MPDU's. The applicability of chapter 25A and the MPDU density increase provided by 59-C-9.574 must be calculated after the base density of a property has been increased by a transfer of development rights. The density increase provided by 59-C-9.574 may be made without the acquisition of additional development rights. The density of development, including the provision of MPDU's must not exceed 1.22 dwelling units per gross acre.

59-C-9.584.3. Approval Procedures Under the Optional Method of Development.

(a) Standards for approval under the Optional Method are as provided in 59- C-9.574 for the Rural Neighborhood Cluster Zone. These standards include the minimum area of development, the standards for diversity of lot sizes and house sizes, development standards, common open space requirements, standards for the use of private streets, sewage treatment requirements, and rural open space guidelines.

Sec. 6.3.1.C. TDR Overlay- Recording of Development Right

(b) A request to utilize development rights on a property under the optional method must be in the form of a preliminary subdivision plan submitted in accordance with the subdivision regulations contained in Chapter 50.

(c) A site plan must be submitted and approved in accordance with the provisions of Division 59-D-3.

(d) The Planning Board must approve a request to utilize development rights if the request:

(1) Does not exceed the limitation on the density or number of dwelling units permitted in the zone and in the applicable master plan approved by the district council;

(2) ~~Is in accordance with the provisions of this chapter;~~

(3) ~~Is in accordance with chapter 50, title "Subdivision of Land;"~~

(4) Is consistent with other recommendations of the master plan approved by the district council; and

(5) ~~Achieves a desirable development compatible with both site conditions and surrounding existing and future development.~~

(e) Prior to recordation of a final record plat for a subdivision using transferred development rights, an easement to the Montgomery County Government in the form required by 59-C-1.392(a) limiting future construction of dwellings on a property in the RDT zone by the number of development rights received must be recorded in the land records of Montgomery County, Maryland.

(f) A final record plat for a subdivision using transferred development rights must contain a statement setting forth the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance required by 59- C-9.584.2(b).

~~59-C-9.584.4. Reserved.~~

~~59-C-9.584.5. Reserved.~~

59-C-9.584.6. Off-street parking. Parking must be provided in accordance with the provisions of 59-C-9.75 for the Rural Neighborhood Cluster zone.

Sec. 59-C-9.6. Transfer of density-Option in Rural Density Transfer zone. Sec. 4.2.3. Agricultural Zone-Special Regulations for the Transfer of Density

In accordance with section 59-C-1.39 and in conformance with an approved and adopted general, master, sector, or functional plan, residential density may be transferred at the rate of one development right per 5 acres minus one development right for each existing dwelling unit, from the Rural Density Transfer zone to a duly designated receiving zone, pursuant to section 59-C-1.39. The density transfer provisions are not applicable to publicly owned rights-of-way for roads, streets, alleys, easements, or rapid transit routes classified in the Rural Density Transfer zone. The following dwelling units on land in the RDT zone are excluded from this calculation, provided that the use remains accessory to a farm. Once the property is subdivided, the dwelling is not excluded:

(a) A farm tenant dwelling, farm tenant mobile home, or guest house as defined in section 59-A-2.1, title "Definitions."

(b) An accessory apartment or accessory dwelling regulated by the special exception provisions of divisions 59-G-1 and 59-G-2.

Sec. 59-C-9.7. Exempted lots and parcels and existing buildings and permits.

59-C-9.71. Exempted lots and parcels--Rural zone.

The following lots are exempt from the area and dimensional requirements of section 59-C-9.4, but they must comply with the requirements of the zone applicable to them prior to their classification in the Rural zone.

(a) A record lot created by subdivision and recorded not later than July 1, 1975, where the application for a preliminary subdivision plan had been submitted to the planning board in accordance with section 50-34 of the subdivision regulations on or before June 4, 1974.

(b) A lot created by deed executed on or before June 4, 1974.

(c) A record lot having an area of less than 5 acres created after June 4, 1974, by replatting 2 or more lots; provided that the resulting number of lots is not greater than the number of lots which were replatted.

(d) A lot created for use for a one-family residence by a child, or the spouse of a child, of the property owner; provided that the following conditions are met:

(1) The property owner can establish that he had legal title on or before June 4, 1974;

(2) This provision applies to only one such lot for each child of the property owner; and

(3) The overall density of the property does not exceed one dwelling unit per 5 acres in any subdivision recorded as of October 1, 1981.

59-C-9.72. Existing buildings and building permits-Rural zone.

(a) Any building or structure for which a building permit was issued and any lawful use which was instituted on property reclassified to the Rural zone prior to the date of enactment of the last approved sectional map amendment by which such lot was rezoned to the Rural zone is not deemed to be nonconforming. Such building or use may be structurally altered, replaced, or repaired, or may be enlarged in conformance with the requirements of the previous zone, so long as it remains an otherwise lawful use as previously allowed.

(b) Construction is permitted pursuant to a building permit validly issued and existing at the time of reclassification to the Rural zone of the property to which it applies if all necessary excavation and piers and/or footings of one or more buildings covered by the permit are completed not more than 6 months subsequent to such reclassification. Buildings and structures so constructed are not considered to be nonconforming.

59-C-9.73. Exempted lots and parcels--Rural Cluster zone and Low Density Rural Cluster Development zone.

(a) Lots created for children in accordance with the Maryland Agricultural Land Preservation Program are exempt from these regulations.

(b) The following lots are exempt from the area and dimensional requirements of section 59-C-9.4 but must meet the requirements of the zone applicable to them prior to their classification in the Rural Cluster zone or Low Density Rural Cluster zone:

(1) A recorded lot created by subdivision, if the record plat was approved for recordation by the planning board prior to the approval date of the most recent sectional map amendment or local map amendment that included the lot.

(2) A lot created by deed executed on or before the approval date of the most recent sectional map amendment or local map amendment that included the lot.

(3) A record lot having an area of less than 5 acres created after the approval date of the most recent sectional map amendment or local map amendment that included the lot, by replatting 2 or more lots; provided that the resulting number of lots is not greater than the number which were replatted.

(4) A lot created for use for a one-family residence by a child, or the spouse of a child, of the property owner, provided that the following conditions are met:

(i) The property owner can establish that he had legal title on or before the approval date of the most recent sectional map amendment that included the lot; and

(ii) This provision applies to only one such lot for each child of the property owner.

59-C-9.74. Exempted lots and parcels-Rural Density Transfer zone.

(a) For a tract of land encumbered by a State or County Agricultural Land Preservation Easement, the total number of lots, including child lots, is governed by the requirements of the easement recorded in the land records of Montgomery County, if there is a development right for each lot and the total number of lots allowed by the easement does not exceed the density of one residential dwelling unit for every 25 acres. Sec. 4.2.4.C

(b) The following lots are exempt from the area and dimensional requirements of section 59-C-9.4 but must meet the requirements of the zone applicable to them before their classification in the Rural Density Transfer zone.

(1) A recorded lot created by subdivision, if the record plat was approved for recordation by the Planning Board before the approval date of the sectional map amendment which initially zoned the property to the Rural Density Transfer Zone.

(2) A lot created by deed executed before the approval date of the sectional map amendment which initially zoned the property to the Rural Density Transfer Zone.

(3) A recorded lot having an area of less than 5 acres created after the approval date of the sectional map amendment which initially zoned the property to the Rural Density Transfer Zone by replatting 2 or more lots; provided that the resulting number of lots is not greater than the number which were replatted.

(4) A lot created for use for a one-family dwelling by a child, or the spouse of a child, of the property owner, if the lot satisfies the requirements of 59-C-9.41.1.

Sec. 59-C-9.8. Special Requirements for Rural Service Zone. See Div. 4.7 Industrial Zones (IM)

~~—59-C-9.81.— Building Coverage, Setbacks and Open Space.~~

~~—(a)— **Minimum open space.** A minimum of 40 percent of the lot must remain in open, non-impervious surface; and must not be used for outdoor storage or parking.~~

~~—(b)— **Floor area.** The gross floor area of buildings shall not exceed FAR 0.15.~~

~~—(c)— **Setback from limited access freeway.** All buildings, off street parking, loading and maneuvering areas must be set back a minimum of 100 feet from an existing or planned limited access freeway.~~

~~—(d)— **Parking requirements.** Off street parking is encouraged to be provided in the rear or side yard and will be in accordance with the requirements and standards of article 59-E of this Zoning Ordinance, providing adequate screening from the primary access road and adjacent uses.~~

~~—(e)— **Signage and Screening.** Any new use or expansion of an existing use proposed in the Rural Service zone must meet the general signage standards of Article 59-F.~~

~~—Also, any use or expansion of an existing use must provide adequate screening from adjacent land uses. Screening must be approved at the site plan review.~~

~~—59-C-9.82.— Development Procedures for Site Plan.~~

~~All uses proposed in the Rural Service zone shall be subject to site plan review, under the procedures set forth in Division 59-D-3.~~

~~—59-C-9.83.— Special Development Standards for a Construction Recycling Facility.~~

~~—(a)— Minimum lot size of 10 acres.~~

~~—(b)— Minimum frontage of 1,000 feet and direct access to a road classified as a primary industrial street or higher.~~

~~—(c)— No more than 2 miles from an interstate highway interchange.~~

~~—(d)— A building setback of 50 feet from any road right of way, except a limited access freeway which is controlled by Section 59 C 9.81, and 75 feet from any adjoining property not classified in an industrial zone or the RS zone.~~

~~—(e)— Off street parking of haul trucks and roll off containers must be in a building or screened from off site visibility, and~~

~~—(f)— A landscaping plan approved by the Planning Board as part of the site plan approval process.~~

~~**—59 C 9.84. Construction Debris Recycling Permit.**~~

~~—A permit to operate a construction debris recycling facility must be obtained from the Department of Permitting Services. The Executive must adopt a Method 2 regulation to establish fees and requirements to implement a Construction Debris Recycling Facility. The regulation must require that:~~

~~—(a)— Construction debris be transported to the construction recycling facility in covered "Roll off" containers or covered trucks.~~

~~—(b)— All sorting and processing be done in an enclosed structure.~~

~~—(c)— When construction debris is separated, collected and processed, an average of 50% of the processed materials by weight have a marketable value.~~

~~—(d)— Permanent storage is not permitted;~~

~~—(e)— Fifty one percent (51%) of the materials processed be collected by the facility operator and~~

~~—(f)— the total volume of construction and demolition debris collected and recycled be reported to the Division of Solid Waste Services on an annual basis.~~