



Bill No. 22-25
Concerning: Sugarloaf Rural Heritage Overlay
District
Introduced: September 6, 2022
Revised: _____ Draft No. _____
Enacted: _____
Effective: _____
Expires: December 5, 2022
Frederick County Code, Chapter 1-19
Section(s) 7.700, 7.710, 7.720, 7.730, 7.740, 8.332,
10.700 and 11.100

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President MC Keegan-Ayer on behalf of County Executive Jan Gardner

AN ACT to: Add the Sugarloaf Rural Heritage Overlay District to the County Zoning Code, and provisions governing uses, activities and design standards. Supplement existing Code provisions related to Communication Towers and Commercial Solar Facilities to include criteria for those facilities located in the Sugarloaf Rural Heritage Overlay. Add a definition of Timber Harvest Streamside Management Zone.

Date Council Approved: _____ Date Transmitted to Executive: _____

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

Date returned by County Executive with no action: _____

By amending:

Frederick County Code, 1-19 Sections 7.700, 7.710, 7.720, 7.730, 7.740, 8.332, 10.700 and 11.100

Other: _____

Boldface

Underlining

[Single boldface brackets]

Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

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The County Council of Frederick County, Maryland, finds it necessary and appropriate to add the Sugarloaf Rural Heritage Overlay District to the County Zoning Code, and provisions governing uses, activities and design standards. Supplement existing Code provisions related to Communication Towers and Commercial Solar Facilities to include criteria for those facilities located in the Sugarloaf Rural Heritage Overlay. Add a definition of Timber Harvest Streamside Management Zone.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

M.C. Keegan-Ayer, President
County Council of Frederick County,
Maryland

Chapter 1-19 (Zoning)

ARTICLE VII: SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 7. SUGARLOAF DISTRICT

§1-19-7.700. SUGARLOAF RURAL HERITAGE OVERLAY DISTRICT

Purpose and Intent

The Sugarloaf Planning Area contains high quality natural resources and unique features that support a vast, diverse, and healthy environment. Special protection measures are appropriate to protect those resources, environments, and features. The intent in creating this Overlay District is to ensure the long-term sustainability, health, and integrity of natural environmental systems, and maintain and protect the ecological function and rural qualities of the landscapes that comprise the Sugarloaf Planning Area. The criteria, standards, and review procedures for proposed land development activities within the Overlay District are intended to minimize or eliminate adverse impacts to water quality, forest resources, wildlife habitats, and scenic and rural landscape elements.

§1-19-7.710. DEVELOPMENT IN THE SUGARLOAF RURAL HERITAGE OVERLAY ZONING DISTRICT.

(A) Applications for a subdivision, site development plan, special exception, individual zoning map amendment, or floating zone approval must include an environmental and natural features map at a minimum scale of 1 inch = 100 feet, and identify the existing conditions (e.g., pre-development) and features of the site proposed for development, including the following:

(1) Intermittent and perennial streams, drainage courses, and flow paths, including stream setbacks as required in 1-19-9.400 of this chapter;

(2) Areas of 100-year floodplain as depicted by the Federal Emergency Management Agency (FEMA) flood insurance rate maps, or amendments thereto, including floodplain as required in 1-19-9.110 of this chapter;

(3) Topography at a minimum of 5 foot contours unless otherwise required by the Division;

(4) Moderate Slopes (15% to <25%) and Steep Slopes (25% and greater);

(5) Wet soils and flooding soils, including buffers;

(6) Tree lines, forested areas, and rock formations and outcroppings;

(7) Wetlands and their buffers, including the total acreage; and

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1 (8) Any other relevant information as required by the Division.

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3 (B) Forest cutting or clearing activities associated with land development must be
4 minimized. All forest cutting or clearing activities are subject to the forest resource
5 regulations in Chapter 1-21 of this Code.

6 (C) Applications for a subdivision, site development plan, individual zoning map
7 amendment, or floating zone for a site identified by the Maryland Department of Natural
8 Resources as a Green Infrastructure Hub or Corridor will be referred by the County to the
9 Maryland Department of Natural Resources' Wildlife and Heritage Service for comment.

10 (D) To ensure safety and full consideration of the impact on the transportation network,
11 natural resources, and the rural character of the Overlay District, site development plans
12 must be submitted for the development of:

13 (1) A Wholesale Nursery if a structure or building or greenhouse or other indoor
14 growing facility is proposed;

15 (2) An Agritourism Enterprise that proposes a new structure or building intended to
16 be used as a farm museum, for agricultural products or skills classes, or as a picnic and
17 party facility.

18 (3) Site development plans will be reviewed by the Planning Commission and
19 approved if all applicable criteria have been satisfied.

20
21 **§1-19-7.720. DESIGN STANDARDS NON-RESIDENTIAL DEVELOPMENT.**

22 (A) Except for non-residential structures or buildings used solely for Agricultural Activity
23 as defined in 1-19-11.110, all new non-residential improvements, including an expansion
24 or enlargement of an existing non-residential structure or building within the Overlay
25 District must incorporate the following design standards in addition to all other applicable
26 requirements of the Zoning Ordinance:

27 (1) Structure and building design must include architectural elements at entrances
28 and areas where the structure or building is visible from a road or public right-of-way
29 including, but not limited to: changes in building plane, windows, doorways, overhanging
30 eaves, and shutters. Structures and buildings may not include large expanses of
31 undifferentiated facades or long plain wall sections. Mechanical equipment, utilities, and
32 facilities such as, refuse containers or outside storage must be located away from primary
33 access points to the greatest extent practicable;

34 (2) Only ground level (<4 ft.) and non-residential building-mounted lighting not
35 exceeding 14 feet in height is permitted, and are in addition to the other applicable
36 requirements in 1-19-6.500 of the Zoning Ordinance;

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1 (3) Lighting must include elements that reduce negative impacts to wildlife migration,
2 nocturnal habits, and circadian rhythms, such as the utilization of lights with amber or
3 yellow tints instead of blue or white light and the use of timers, motion detectors, and light-
4 sensitive switches to actively regulate the emission of light from light fixtures; and

5 (4) Site entrance walls, bridges, guardrails, fencing, signage, and lighting proposed
6 in conjunction with non-residential site improvements, must be designed and styled with
7 treatments and materials compatible with the rural and natural setting.

8 (B) Size of Structures and Buildings.

9 Unless exempt under subsection (3) or approved pursuant to subsection (4) below,
10 the footprint of all non-residential structures and buildings constructed on a lot or parcel
11 after **effective date of this Bill**, 2022 may not exceed 15,000 square feet.

12 (1) An expansion or enlargement of an existing non-residential structure or building
13 may not increase the footprint of the structure or building above 15,000 square feet.

14 (2) "Footprint" includes the boundaries of the exterior walls, areas covered by a roof
15 structure, decks, porches, concrete or asphalt slabs in proximity to or associated with a
16 structure or building.

17 (3) New or expanded non-residential structures or buildings are exempt from the
18 15,000 square foot footprint limit if the structure or building is used solely for:

- 19 (a) Agricultural Activity, as defined in 1-19-11.100;
- 20 (b) Apiary;
- 21 (c) (c) Agricultural value added processing;
- 22 (d) Agritourism enterprises;
- 23 (e) Nursery, retail;
- 24 (f) Nursery, wholesale;
- 25 (g) Farm distillery;
- 26 (h) Farm distillery tasting room;
- 27 (i) Farm winery;
- 28 (j) Farm winery tasting room;
- 29 (k) Limited farm alcoholic beverages tasting room;
- 30 (l) Farm brewery;
- 31 (m) Farm brewery tasting room;
- 32 (n) Limited roadside stand;
- 33 (o) Commercial roadside stand;
- 34 (p) Feed and grain mill
- 35 (q) Agricultural products processing

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1 (4) In conjunction with a Site Plan Submission, a request may be made to exceed the
2 15,000 square foot building footprint limitation. Approval may be granted by the Planning
3 Commission if it finds that:

4
5 (a) The specialized functional and operational needs of the proposed use requires
6 that the non-residential structure or building footprint exceed 15,000 square
7 feet; and

8
9 (b) The proposed site design elements and building design features, such as
10 enhanced energy efficiency, water conservation (e.g., re-use, consumption
11 reductions), and stormwater runoff controls, or other measures utilized will
12 minimize the negative impacts on natural resources and the surrounding
13 properties that result from the development proposal and the increased building
14 footprint.

15 **§ 1-19-7.730. TREE CUTTING AND FORESTRY ACTIVITIES.**

16 Commercial logging or timber harvest operations require the issuance: of a grading
17 permit, an approved timber harvest plan, an approved sediment and erosion control plan,
18 and stream crossing/wetlands permits if wetlands are impacted.

19 (A) The Frederick County Forest Conservancy Board is the reviewing and approval
20 agency for the timber harvest plan.

21 An application for approval of a timber harvesting plan must include:

22 (1) A forest harvest map that graphically depicts the following:

- 23
24 (a) steep slopes and moderate slopes;
25 (b) intermittent and perennial streams and associated;
26 (c) drainage networks/flow paths;
27 (d) locations of all crossings of perennial and intermittent streams;
28 (e) wetlands, springs, seeps;
29 (f) property boundaries;
30 (g) locations of plots for harvest;
31 (h) location of all forested areas on the parcel/lot;
32 (i) streamside management zone/riparian areas;
33 (j) no-cut areas;
34 (k) planned skid trails – numbers and locations;
35 (l) planned haul roads – numbers and locations;
36 (m) planned landing area(s)- location(s) and approximate size(s);
37 (n) site entrance/access location(s); and
38 (o) map title, scale, north arrow.

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2 (2) A written narrative that identifies:

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4 (a) Landowner objectives;
5 (b) Size of parcel(s);
6 (c) Total acreage in planned harvest;
7 (d) Location of forest;
8 (e) Type of cutting (e.g., intermediate thinning, clearcut, shelterwood, seed tree,
9 uneven-aged selection, etc.);
10 (f) Description of forest stand characteristics (pre- and post-harvest), including
11 species composition, age class diversity, tree species diversity, presence of
12 non-native, invasive species and measures to manage non-native invasive
13 species post-harvest;
14 (g) Flagging and tree marking guide details for log landing areas, streamside
15 management zones, and contemplated skids trails and haul roads;
16 (h) Techniques, methods, and devices proposed to minimize runoff and erosion,
17 and to reduce sedimentation in perennial and intermittent streams, river, lakes,
18 and ponds from harvest areas, haul roads, skid trails, log landings, and site
19 entrances; and
20 (i) Name, address, phone number, email address of property owner and report
21 preparer(s).

22 (B) The Frederick Soil Conservation District is the reviewing and approval agency for an
23 erosion and sediment control plan.

24 (C) The Maryland Department of the Environment is the reviewing and approval agency
25 for permits for perennial and intermittent stream crossings, and for wetland impacts.

26 (D) For property located within a Timber Harvest Streamside Management Zone, the
27 following restrictions apply:

- 28 (1) No tree harvest or removal may occur within 50 feet of the bank along all sides of
29 a perennial or intermittent stream, river, lake, or pond;
30 (2) No refueling or cleaning of equipment may occur;
31 (3) No log landing areas are permitted; and
32 (4) Skid trails and haul roads must be minimized

33 **§ 1-19-7.740. PROHIBITED USES.**

34 The following uses are prohibited in the Sugarloaf Rural Heritage Overlay Zoning
35 District:

- 36 (a) Sawmill;
37 (b) springwater harvesting and storage;
38 (c) recreational vehicle storage facility;

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- 1 (d) carnival/circus;
- 2 (e) rodeo;
- 3 (f) shooting range/club-trap, skeet, rifle, archery;
- 4 (g) aircraft landing and storage areas for private-commercial use;
- 5 (h) outdoor sports recreation facility;
- 6 (i) borrow pit operations;
- 7 (j) industrial waste landfill;
- 8 (k) rubble landfill;
- 9 (l) resource recovery facility-separated recyclables;
- 10 (m) limited food waste composting-commercial activity;
- 11 (n) unlimited wood waste recycling facility;
- 12 (o) sludge amended yard waste;
- 13 (p) solid waste composting;
- 14 (q) sludge pit.

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17 **ARTICLE VIII: SPECIFIC USE REGULATIONS**

18 **DIVISION 3. SPECIAL EXCEPTION USES**

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21 **§ 1-19-8.332. COMMUNICATION TOWERS IN RC AND A DISTRICTS.**

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25 (G) Within the Sugarloaf Rural Heritage Overlay District, towers must be camouflaged,

26 disguised, or concealed to provide an appearance, texture, and color that is compatible

27 and blends in with the native vegetation of the area and maintains a physical and

28 locational contextual scale. If a tower or antenna is incorporated into, or located on,

29 adjacent, or near to an existing structure or building, the tower or antenna design must

30 be compatible with the scale, size, and architectural style of the structure or building,

31 surrounding buildings, and surrounding infrastructure.

32 (H) ~~(G)~~ The zoning certificate issued for a special exception shall be valid for a period of

33 5 years from the date that the decision of the Board of Appeals is signed. This zoning

34 certificate shall be renewed for additional 5 year periods after review by the Board of

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1 Appeals at a regular meeting. The following are the only grounds on which renewal of a
2 certificate may be denied.

3 (1) The permittee has failed to comply with the conditions of the special exception
4 approval.

5 (2) The facility has not been maintained in a safe condition.

6 (3) The Board of Appeals determines that the use of the tower for wireless
7 communications has ceased for a period of 6 months.

8 (I) ~~(H)~~ All special exception approvals must also comply with the requirements of § 1-
9 19-8.420.2.

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13 **ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT**
14 **DIVISION 7. SOLAR FACILITY, COMMERCIAL FLOATING ZONE**
15 **DISTRICT**

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17 **§ 1-19-10.700. SOLAR FACILITY - COMMERCIAL FLOATING ZONE DISTRICT.**

18 *****

19 (C) Approval criteria.

20 *****

21 (8) Within the Sugarloaf Rural Heritage Overlay Zoning District, solar facilities and
22 panels may not be constructed or installed on gradients of 15% or greater; solar facilities
23 and panels must be set back not less than 100 feet from a perennial or intermittent stream.
24 Not more than 12% of the existing forest cover the tract or tracts of land can be removed
25 or cleared for the construction or installation of solar facilities and panels. In buffering and
26 screening areas not required to be used for forest mitigation, native grasses and
27 wildflowers must be planted and maintained.

28 (9)~~(8)~~ The applicant must comply with all applicable federal and state regulations,
29 including but not limited to obtaining a certificate of public convenience and necessity
30 from the Public Service Commission if required, and in the removal and disposal of the
31 solar facility and all of its components.

32 (10)~~(9)~~ All solar facilities and panel disconnects must be mapped and registered with
33 the Frederick County Division of Fire and Rescue Services.

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1 ~~(11)~~(40) If for a period of 6 months, the solar facility ceases to generate electricity or
2 is disconnected from the electric grid, the approval will terminate. The property owner
3 shall remove the solar facility within 90 days after termination. The property owner shall
4 ensure the solar facility removal and disposal by posting an acceptable monetary
5 guarantee with the County on forms provided by the office of the Zoning Administrator.
6 The guarantee shall be for an amount equal to a cost estimate approved by the Zoning
7 Administrator for the removal and disposal of the solar facility, plus a 15% contingency. If
8 a guarantee for the cost of removal and disposal of the solar facility is required by and
9 provided to a state entity, the Zoning Administrator may accept documentation of the
10 posting of the guarantee with the state entity as satisfaction of this requirement.

11 ~~(12)~~(11) If approval of the application is granted it may include conditions and
12 restrictions deemed necessary to fulfill these criteria and to protect the intent of the
13 agricultural/rural land use designation.

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Article XI: Definitions

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§1-19-11.100. DEFINITIONS.

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19 **Timber Harvest Streamside Management Zone.** The area within 50 feet of the bank
20 along all sides of a perennial or intermittent stream, river, lake, or pond.

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