

SUGARLOAF RURAL HERITAGE OVERLAY ZONING DISTRICT:

Recommended Regulatory Framework

On October 25, 2022, the Frederick County Council adopted the Sugarloaf Treasured Landscape Management Plan (“the Plan”) and approved zoning changes within the planning area.

The County Council did not adopt the Sugarloaf Rural Heritage Overlay Zoning District (“the Overlay”). As part of its adoption of the Plan in Resolution 22-46, the County Council sent (or remanded) the following items to the Frederick County Planning Commission for further consideration:

1. Text in the planning document on Page 53 describing the Overlay.
2. Map 4-6 on Page 65 showing the properties that would be subject to the Overlay.
3. Appendix Pages A-21 through A-26. These pages were the Planning Commission’s regulatory recommendations for the Overlay (the recommended changes to the County’s Zoning Ordinance).

The following pages are a red-lined version of Item #3, the Planning Commission’s proposed regulatory framework for the Overlay district. It is formatted according to the proposed [May 17, 2023 Sugarloaf Plan Amendment text](#) but contains “cross-walk” references to the July 2022 appendix sections.

The Planning Commission held their public hearing on the proposed amendment on July 20, 2023. The Commission will ultimately recommend an amendment to the County Council which will address Items 1, 2, and 3. For more information on the Planning Commission’s recommendations for Items 1 and 2, click the “May 17, 2023” hyperlink above.

Chapter 1-19 (Zoning)

Article VII: Supplementary District Regulations

New Division 7 (Sugarloaf District) within Article 7 in Zoning Ordinance. New Section 1-19-7.700
Sugarloaf Rural Heritage Overlay District

§1-19-7.700 SUGARLOAF RURAL HERITAGE OVERLAY DISTRICT

2022 Appendix Reference(s): "Purpose & Intent."

Purpose and Intent

The Sugarloaf Planning Area ~~has~~contains high quality natural resources and unique features that support a vast, diverse, and healthy environment. Special protection measures are appropriate to protect~~needed where land use changes could threaten~~ those resources, environments, and features. ~~It is the intent of the County, in creating this District, 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 District establishes criteria, standards, and review procedures for land development activities~~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

2022 Appendix Reference(s): "Additional Requirements in the Sugarloaf Rural Heritage Overlay Zoning District," "Tree cutting and forestry activities."

- (A) Applications ~~submitted for~~ a subdivision, site development plan, special exception, individual zoning map amendments, or floating zone approval ~~shall~~must include an environmental and natural features map at a minimum scale of 1 inch = 100 feet, ~~that reflects 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 total acreage; and
 - (8) Any other relevant information as required by the Division.
- (B) Forest cutting or clearing activities ~~in connection associated~~ with land development ~~shall~~must be minimized. ~~All activities to which the forest resource regulations in Chapter 1-21 of this Code apply shall be subject to the regulations and requirements set forth in that Chapter. In addition~~

~~to the requirements in Chapter 1-21, no more than 40,000 square feet shall be cleared for each home site. For all permitted nonresidential uses, site development plan approval shall require that site clearing is minimized. All forest cutting or clearing activities are subject to the forest resource regulations in Chapter 1-21 of this Code.~~

- (C) ~~All a~~Applications for a subdivision, site development plan, individual zoning map amendments, or floating zones ~~involving for~~ a site identified by the Maryland Department of Natural Resources as a Green Infrastructure Hub or Corridor ~~or an Ecologically Significant Area shall will~~ be referred by the County to the Maryland Department of Natural Resources' Wildlife and Heritage Service for comment.
- (D) ~~In addition to the site development plans required per 1-19-5.310, site development plans must be submitted for the development of the following uses To ensure safe and efficient development with careful consideration safety and full consideration of the impacts on site design,~~ the transportation network, natural resources, and the rural character of the area, Overlay District: site development plan approval from the Planning Commission is required prior to establishment or development of a
- (1) A Wholesale Nursery that proposes any if a structure or building or greenhouse or other such indoor growing facility is proposed.
 - (2) ~~Site development plan approval from the Planning Commission is also required prior to establishment of a~~ An Agritourism Enterprise as defined in 1-19-11.100 that proposes a new structure(s) or building intended or planned for use as a farm museum, for agricultural products or skills classes, or as a picnic and to be open to the public or invited groups for education or recreational purposes, including party facilities.
 - (3) Site development plans will be reviewed by the Planning Commission.

§1-19-7.720. DESIGN STANDARDS NON-RESIDENTIAL DEVELOPMENT

2022 Appendix Reference(s): "Regulatory Components for Overlay Zone," "Design Standards."

- (A) ~~Except for residential structures, storage structures less than 300 square feet in area, and buildings used solely for Agricultural Activity as defined in 1-19-11.100, A~~ all new non-residential development improvements including an expansion or enlargement of an existing structure or building within the Sugarloaf Rural Heritage Overlay Zoning District shall must incorporate the following design standards in addition to all other applicable requirements of the Zoning Ordinance:
- (1) ~~Non-residential Structure and~~ building design ~~shall must~~ include architectural elements at entrances and areas where the structure or building is visible from a road or public right-of-way ~~including, but not limited to such as:~~ changes in building plane, windows, doorways, overhanging eaves, and shutters. ~~Non-residential Structures and~~ buildings ~~shall may~~ not include large expanses of undifferentiated facades or long plain wall sections. Mechanical equipment, utilities, and ~~non-public facilities (i.e., such as refuse containers or outside storage) shall must~~ be designed located away from primary ~~public~~ access ~~areas points~~ to the greatest extent practicable.
 - (2) ~~For all non-residential buildings and associated development proposals, o~~ Only ground level (<4 ft.) and non-residential building-mounted or pole-mounted

lighting not exceeding ~~14~~18 feet in height ~~is-are~~ permitted, and are in addition to ~~all the~~ other applicable requirements in 1-19-6.500 of the Zoning Ordinance.

- a. Modifications to the requirements of §1-19-7.720(2) may be approved by the Planning Commission, Zoning Administrator, or Planning Commission Authorized representative as specified in this chapter. The applicant's request shall include written justification describing why taller lighting fixtures are required or beneficial for the proposed use.
- b. Lighting for all new non-residential buildings and associated development plans approved under §1-19-7.720(2)(a) shall must include elements that reduce negative impacts to wildlife migration, nocturnal habits, and circadian rhythms, such as the utilization of lights with amber or yellow tints instead of blue or white light and the use of timers, motion detectors, and light-sensitive switches to actively regulate the emission of light from light fixtures; and

- (3) If any of the following elements are located within 100 feet of the edge of a public road, site entrance walls, bridges, guardrails, fencing, signage, and lighting proposed in association conjunction with non-residential site improvements, they shall must be uniquely designed and styled with treatments and materials compatible with the rural and natural setting: site entrance walls, bridges, guardrails (provided ASHTO standards are met), fencing, signage, and lighting.

- (B) Size of Structures and Buildings. ~~Non-residential buildings, with the *Exception noted below, constructed on a lot or parcel (after effective date)~~
Unless exempt under subsection (3) or approved pursuant to subsection (4) below, the footprint of all non-residential structures and buildings constructed on a lot or parcel after effective date of this Bill _____, 2023 shall may not exceed a 15,000-10,000 square-foot feet building footprint. (In this context, footprint refers to the boundaries of the exterior walls, the covered area of the roof structure, and uncovered decks and porches, and concrete or asphalt slabs associated with a building).

- (1) An expansion or enlargement of an existing non-residential structure or building shall may not increase the non-residential building footprint of the structure or building beyond a above 15,000 10,000 square-foot building footprint feet.
- (2) "Building Footprint" includes the boundaries of the exterior walls and areas covered by a roof structure.
- (3) *Exception: The 15,000 square foot building footprint limit does not apply to nNew or expanded non-residential structures or buildings used only for agricultural activities, as defined in 1-19-11.100, and the following uses: are exempt from the 10,000 square foot footprint limit if the structure or building is used solely for:

Natural Resource Uses (listed in Section 1-19-5.310)

- (a) Agricultural Activity, as defined in 1-19-11.100;
- (b) Apiary;
- (c) Agricultural value added processing;
- (d) Agritourism enterprises;
- (e) Nursery, retail;
- (f) Nursery, wholesale;

- (g) Farm distillery;
- (h) Farm distillery tasting room;
- (i) Farm winery;
- (j) Farm winery tasting room;
- (k) Limited farm alcoholic beverages tasting room;
- (l) Farm brewery;
- (m) Farm brewery tasting room;
- (n) Limited roadside stand;
- (o) Commercial roadside stand;

~~Commercial Use—Retail (listed in Section 1-19-5.310)~~

- (p) Feed and grain mill

~~Wholesaling and Processing Use (listed in Section 1-19-5.310)~~

- (q) Agricultural products processing
- (4) ~~In conjunction with a Site Plan Submission, Aa request may be made to exceed the 15,000-10,000 square foot building footprint limitation. for new non-residential buildings or expansions/enlargements may be granted by the body or entity with specific approval authority upon review of a justification statement from the applicant/owner that addresses and describes, in detail, the following: Approval may be granted by the Planning Commission if it finds that:~~
 - (a) ~~The specialized functional and operational needs of the proposed activity or use requires that warrant a the non-residential structure or building with a building footprint larger than exceed 15,00010,000 square feet; and~~
 - (b) ~~The proposed site design elements, and building design features, or other measures utilized will such as enhanced energy efficiency, water conservation (e.g., re-use, consumption reductions), and stormwater runoff controls, or other measures that will be utilized to minimize or eliminate the negative impacts to on natural resources, local infrastructure such as roads and bridges, the aural environment, and the character of surrounding other properties located within the Overlay District that may result from the overall development proposal and the increased building footprint.~~

~~For permitted uses (marked P in the Use Table), the approval authority will be County staff. For uses that require Board of Appeals approval (marked E in the Use Table), the approval authority will be the Board of Appeals. For uses that require site plan approval (marked PS in the Use Table), the approval authority will be the Planning Commission or their authorized representatives.~~

§1-19-7.730. COMMERCIAL LOGGING.

2022 Appendix Reference(s): "Tree cutting and forestry activities."

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

~~(2) The following shall be included with the application for a grading permit for commercial logging or timber harvest operations in which 5,000 or more square feet of earth will be disturbed:~~

(A) The Frederick County Forest Conservancy Board is the reviewing and approval agency for the timber harvest plan. An application for approval of Aa timber harvesting plan that must includes the following materials:

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

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

(2) A written narrative that ~~addresses the following identifies:~~

- (a) landowner objectives;
- (b) size of parcel(s);
- (c) total acreage in planned harvest;
- (d) location of forest;
- (e) type of cutting (e.g., intermediate thinning, clearcut, shelterwood, seed tree, uneven-aged selection, etc.) ;
- (f) description of forest stand characteristics (pre- and post-harvest), including species composition, age class diversity, tree species diversity, presence of non-native, invasive species and measures to manage non-native invasive species post-harvest ;
- (g) flagging and tree marking guide details for log landing areas, streamside management zones, and contemplated skids trails and haul roads;
- (h) techniques, methods, and devices proposed to minimize runoff and erosion, and to reduce sedimentation in perennial and intermittent streams, river, lakes, and ponds from harvest areas, haul roads, skid trails, log landings, and site entrances; and
- (i) name, address, phone number, email address of property owner and report preparer(s).

[Note, the following was not deleted, only incorporated into §1-19-7.730(A) above] ~~B. Review and approval of a timber harvest plan and a forest harvest map by the Frederick County Forest Conservancy Board, following a site inspection of the property by the Forestry Board.~~

- (B) Approval of an erosion and sediment control plan by the Frederick Soil Conservation District. The Frederick Soil Conservation District is the reviewing and approval agency for an erosion and sediment control plan.
- (C) Approval of a stream crossing permit by the Maryland Department of the Environment for perennial and intermittent stream crossings or wetland impacts. The Maryland Department of the Environment is the reviewing and approval agency for permits for perennial and intermittent stream crossings, and for wetland impacts.
- (D) For property located within a Timber Harvest Streamside Management Zone, the following requirements/restrictions apply:
- ~~60 square feet of basal area per acre with evenly distributed trees, which are six (6) inches or greater in diameter, must be maintained post harvest~~
 - (1) No tree harvest or removal ~~shall~~may occur within 50 feet of the banks along all sides of a perennial or intermittent stream, ~~or a~~ river, lake, or pond;
 - (2) No refueling or cleaning of equipment ~~shall~~may occur;
 - (3) No log landing areas are permitted; and
 - (4) Skid trails and haul roads ~~shall~~must be minimized.

§1-19-7.740. PROHIBITED USES.

2022 Appendix Reference(s): "Additional Requirements in the Sugarloaf Rural Heritage Overlay Zoning District."

In addition to the prohibited uses set forth in §1-19-5.310. Use Table, the following uses are prohibited on properties in the Sugarloaf Rural Heritage Overlay Zoning District with Agricultural zoning:

- (a) sawmill;
- (b) springwater harvesting and storage;
- (c) recreational vehicle storage facility;
- (d) carnival/circus;
- (e) rodeo;
- (f) shooting range/club-trap, skeet, rifle, archery;
- (g) aircraft landing and storage areas for private-commercial use;
- (h) outdoor sports recreation facility;
- (i) borrow pit operations;
- (j) industrial waste landfill;
- (k) rubble landfill;
- (l) resource recovery facility-separated recyclables;
- (m) limited food waste composting-commercial activity;
- (n) unlimited wood waste recycling facility;
- (o) sludge amended yard waste;
- (p) solid waste composting;
- (q) sludge pit.

In addition to the prohibited uses set forth in §1-19-5.310. Use Table, the following uses are prohibited on properties in the in the Sugarloaf Rural Heritage Overlay Zoning District with Resource Conservation zoning:

- (a) sawmill;

(b) shooting range/club-trap, skeet, rifle, archery.

§ 1-19-7.750. EXEMPT USES.

2022 Appendix Reference(s): None.

The following uses are exempt from the specific restrictions set forth in §1-19-7.710 through §1-19-7.740 Sugarloaf Rural Heritage Overlay Zoning District:

- (a) limited outdoor sports recreation facility as defined in 1-19-11.100;
- (b) temporary sawmill;
- (c) archery as an accessory to a permitted use.

1-19-10.700 – Solar Facility – Commercial Floating Zone District

~~(B)(5) Within the Sugarloaf Rural Heritage Overlay Zoning District, the following standards apply: Solar facilities or panels may not be constructed or installed on gradients of 15% or greater; solar facilities or panels must maintain a 100 foot setback from all perennial and intermittent streams. In areas not required to be used for forest mitigation as specified in Chapter 1-21 of this Code, native grasses and wildflowers shall be planted; No more than 12% of the existing forest cover on a lot, parcel, or tract may be removed or cleared for the construction or installation of solar facilities or panels.~~

Chapter 1-19 (Zoning), Article VII: SPECIFIC USE REGULATIONS, DIVISION 3. SPECIAL EXCEPTION USES
§ 1-19-8.332. COMMUNICATION TOWERS IN RC AND A DISTRICTS.

2022 Appendix Reference: “1-19-8.332 Communication Towers in RC and A Districts”

- (G) Within the Sugarloaf Rural Heritage Overlay District, ~~all special exception approvals must also comply with the following:~~

~~Communication~~ towers ~~shall~~ must be camouflaged, disguised, or concealed to provide an appearance, texture, and color that ~~matches-is compatible and blends in with~~ the native vegetation of the area and maintains a physical and locational contextual scale. If a ~~communication~~ tower or antenna is incorporated into, ~~on or located on, or directly adjacent,~~ or near to an existing structure or building ~~or other infrastructure~~, the ~~communication~~ tower or antenna ~~shall be designed to design must~~ be compatible with the scale, size, and architectural style of the structure or building, surrounding buildings, and surrounding infrastructure.

- (H) The zoning certificate issued for a special exception shall be valid for a period of 5 years from the date that the decision of the Board of Appeals is signed. This zoning certificate shall be renewed for additional 5 year periods after review by the Board of Appeals at a regular meeting. The following are the only grounds on which renewal of a certificate may be denied.

- (1) The permittee has failed to comply with the conditions of the special exception approval.
- (2) The facility has not been maintained in a safe condition.

- (3) The Board of Appeals determines that the use of the tower for wireless communications has ceased for a period of 6 months.
- (I) All special exception approvals must also comply with the requirements of § 1-19-8.420.2.

Chapter 1-19 (Zoning), Article XI: Definitions
§1-19-11.100. DEFINITIONS.

2022 Appendix Reference: None.

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

Sawmill, Temporary. The temporary use of property where logs are debarked and sawn into dimensional lumber utilizing a portable sawmill. Such operations may include but are not limited to, processing, drying, finishing, or shipping of lumber, and commercial firewood processing. A temporary sawmill shall operate for no longer than 30 days.

Limited Outdoor Sports Recreation Facility. The use of property for outdoor recreational activities including but not limited to field sports, equestrian activities, or any combination thereof, where amplified sound is prohibited, lighting is limited to what is necessary for safety purposes and does not enable nighttime recreation, clearing is minimized, and the total developed area of the site does not exceed 10 acres. This use may also include buildings accessory to the primary use of limited outdoor sports recreation facility.

Spring Water Harvesting or Storage. The use of property for collection, storage, purification and/or transportation of spring water for commercial sale.