

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

**February 18, 2020
Legislative Session Day**

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**CODE HOME RULE
BILL NO. 3-2020**

INTRODUCED BY: P. Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Article V. District Regulations, Section 1 (Agricultural Zoning District), Section 1.3 (Special Exceptions); Article V. District Regulations, Section 7 (Village District), Sub-section 7.2 (Permitted Principal Uses and Structures); Article V. District Regulations, Section 8 (Intense Village), Sub-section 8.2 (Permitted Principal Use and Structures); Article V. District Regulations, Section 11 (Commercial District), Sub-section 11.2 (Permitted Principal Uses and Structures) and Sub-section 11.8 (Commercial Design Standards); Article V. District Regulations, Section 14 (Employment Center District), Sub-section 14.2 (Permitted Principal Uses and Structures) and Sub-section 14.9 (Employment Center General Design Standards); Article V. District Regulations, Section 15 (Industrial District), Sub-section 15.2 (Permitted Principal Uses and Structures) and Sub-section 15.9 (Industrial Design Standards); Article VI. Special Provisions, Section 1 (Parking and Loading Requirements), Sub-section 1.3 (Parking Requirements); and, Article VII. Special Exceptions, Section 6 (Procedures) and Section 7 (Special Exceptions) of the Kent County Land Use Ordinance by adding the use “data processing centers” in certain districts as a special exception with certain specific conditions and in certain zoning districts as a permitted use; providing for a process to allow for alternative compliance with specific design standards in certain zoning districts; and providing parking requirements for data processing centers.

THE COUNTY COMMISSIONERS OF
KENT COUNTY, MARYLAND

P. Thomas Mason, President

INTRODUCED, read first time, February 18, 2020, ordered posted and public hearing scheduled March 17, 2020, at 10:00 a.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

Sondra M. Blackiston, Clerk

PUBLIC HEARING HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on March 17, 2020. Reported favorably [without] amendments; read a second time and ordered to be considered on March 31, 2020, a legislative session day.

A BILL ENTITLED CHR 3-2020 DATA PROCESSING CENTERS

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended as follows:

ARTICLE V.
DISTRICT REGULATIONS

SECTION 1. AGRICULTURAL ZONING DISTRICT

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SECTION 1.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Agricultural Zoning District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres

...

29. *Wind energy systems, small*, with a height that exceeds 80 feet or on parcels less than 20 acres*

30. DATA PROCESSING CENTERS

ARTICLE V.
DISTRICT REGULATIONS

SECTION 7. VILLAGE DISTRICT

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7.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes:

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~~Strike through~~ indicates matter deleted from existing law.

1. Detached *single family dwellings*

...

25. Up to 30 self-storage units in 1 building not to exceed 100 square feet of floor space per unit, subject to site plan review. The property shall front on 2 public roads.

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26. DATA PROCESSING CENTERS, SUBJECT TO *SITE PLAN REVIEW*

ARTICLE V.
DISTRICT REGULATIONS

SECTION 8. INTENSE VILLAGE

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8.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes:

1. Detached *single family dwellings*

...

22. Self storage centers, provided the front façade of the center and any other façade visible from adjoining public roads reflect the scale, materials and design features common to residential or *historic structures* in the County. Self storage centers shall require site plan review.

23. DATA PROCESSING CENTERS, SUBJECT TO *SITE PLAN REVIEW*

ARTICLE V.
DISTRICT REGULATIONS

SECTION 11. COMMERCIAL DISTRICT

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11.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture,

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hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.

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15. *Microbrewery* as defined by the State of Maryland**

16. DATA PROCESSING CENTERS, SUBJECT TO THE ALTERNATE DESIGN PROVISIONS OF SECTION 11.8 C.

ARTICLE V.
DISTRICT REGULATIONS

11.8 COMMERCIAL DESIGN STANDARDS

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C. ALTERNATE DESIGN FOR DATA PROCESSING CENTERS

UPON THE AFFIRMATIVE RECOMMENDATION OF THE PLANNING DIRECTOR, APPLICANTS MAY PRESENT FOR APPROVAL TO THE PLANNING COMMISSION AN ALTERNATE DESIGN SOLUTION THAT VARIES FROM THE STANDARDS SET FORTH IN SECTION 11.8, EXCEPT FOR STANDARDS SET FORTH IN § 11.8 B. 5. FLOODPLAIN. APPLICANTS MUST INCLUDE A WRITTEN NARRATIVE THAT EXPLAINS HOW THE PROPOSED ALTERNATE DESIGN SOLUTION DIFFERS FROM THE REQUIREMENTS AND THE REASONS FOR THE CHANGES PROPOSED.

ARTICLE V.
DISTRICT REGULATIONS

SECTION 14. EMPLOYMENT CENTER DISTRICT

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14.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every **COMMERCIAL AND** industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No building permit shall be issued until said *site plan* is approved by the *Planning Commission* or where applicable the Planning Director.

1. Manufacture, processing, fabrication, and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals,

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household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.

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17. *Solar energy systems, utility scale*, provided:

- a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- b. Screening, capable or providing year-round screening, is provided along any side that does not provide solar collection.
- c. Roof mounted solar collection devices shall not extent more than 10 feet from the top of the roof. The total height of the building, including the solar collection devices shall comply with the height regulations.
- d. Solar collection devices shall not exceed 45 feet in height.
- e. All solar collection devices shall register with the Kent County Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

18. DATA PROCESSING CENTERS, SUBJECT TO THE ALTERNATE DESIGN PROVISIONS OF SECTION 14.9 C.

ARTICLE V.
DISTRICT REGULATIONS

14.9 EMPLOYMENT CENTER GENERAL DESIGN STANDARDS

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C. ALTERNATE DESIGN FOR DATA PROCESSING CENTERS

UPON THE AFFIRMATIVE RECOMMENDATION OF THE PLANNING DIRECTOR, APPLICANTS MAY PRESENT FOR APPROVAL TO THE PLANNING COMMISSION AN ALTERNATE DESIGN SOLUTION THAT VARIES FROM THE STANDARDS SET FORTH IN SECTIONS 14.7 AND 14.9, EXCEPT FOR STANDARDS SET FORTH IN § 14.9 B. 3. FLOODPLAIN. APPLICANTS MUST INCLUDE A WRITTEN NARRATIVE THAT EXPLAINS HOW THE PROPOSED ALTERNATE DESIGN SOLUTION DIFFERS FROM THE REQUIREMENTS AND THE REASONS FOR THE CHANGES PROPOSED.

ARTICLE V.
DISTRICT REGULATIONS

SECTION 15. INDUSTRIAL DISTRICT

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15.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every **COMMERCIAL AND** industrial *structure* and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a *site plan* shall be filed. No building permit shall be issued until said *site plan* is approved by the *Planning Commission* or where applicable the Planning Director.

1. Manufacture, processing, fabrication, and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.

...

18. *Solar energy systems, utility scale*, provided:
 - a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
 - b. Screening, capable or providing year-round screening, is provided along any side that does not provide solar collection.
 - c. Roof mounted solar collection devices shall not extent more than 10 feet from the top of the roof. The total height of the building, including the solar collection devices shall comply with the height regulations.
 - d. Solar collection devices shall not exceed 45 feet in height.
 - e. All solar collection devices shall register with the Kent County Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.

19. DATA PROCESSING CENTERS, SUBJECT TO THE ALTERNATE DESIGN PROVISIONS OF SECTION 15.9 §10.

ARTICLE V.
DISTRICT REGULATIONS

15.9 INDUSTRIAL DESIGN STANDARDS

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10. ALTERNATE DESIGN FOR DATA PROCESSING CENTERS

UPON THE AFFIRMATIVE RECOMMENDATION OF THE PLANNING DIRECTOR, APPLICANTS MAY PRESENT FOR APPROVAL TO THE PLANNING COMMISSION AN ALTERNATE DESIGN SOLUTION THAT VARIES FROM THE STANDARDS SET FORTH IN SECTIONS 15.7 AND 15.9, EXCEPT FOR STANDARDS SET FORTH IN SECTION 15.9 §3. FLOODPLAIN. APPLICANTS MUST INCLUDE A WRITTEN NARRATIVE THAT EXPLAINS HOW THE PROPOSED ALTERNATE DESIGN SOLUTION DIFFERS FROM THE REQUIREMENTS AND THE REASONS FOR THE CHANGES PROPOSED.

ARTICLE VI.
SPECIAL PROVISIONS

SECTION 1. PARKING AND LOADING REQUIREMENTS

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1.3 PARKING REQUIREMENTS

Residential	2 per dwelling unit
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Convalescent Home	1 per 5 patient beds
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DATA PROCESSING CENTERS MAXIMUM	1 PER EMPLOYEE AT OCCUPANCY
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ARTICLE VII.
SPECIAL EXCEPTIONS

SECTION 6. PROCEDURES

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CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW.

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The application for a special exception shall include a site plan together with such data and information as may be required for a determination of the nature of the proposed use and its effect on the *Comprehensive Plan*, the neighborhood, and surrounding properties.

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The following special exceptions shall be forwarded directly to the Board of Appeals:

1. DATA PROCESSING CENTERS

- ~~1.~~ **2.** Dog kennels, commercial
- ~~2.~~ **3.** Dormitories for employees
- ~~3.~~ **4.** Exposition center or fairgrounds
- ~~4.~~ **5.** Farm employee housing
- ~~5.~~ **6.** More than four horses and mules on land less than 20 acres in size
- ~~6.~~ **7.** Private clubs
- ~~7.~~ **8.** Public landings
- ~~9.~~ **10.** Raising of small animals
- ~~10.~~ **11.** Rifle and pistol ranges
- ~~11.~~ **12.** Single family dwellings
- ~~12.~~ **13.** Structures for the buying, processing, and sale of farm products in structures that exceed 10,000 square feet but are less than 25,000 square feet

...

ARTICLE VII.
SPECIAL EXCEPTIONS

SECTION 7. SPECIAL EXCEPTIONS

Buildings, structures, and uses for which special exceptions may be authorized and the additional standards relative thereto are as follows:

- 1. Accessory storage structures with a floor area of more than 1,200 square feet or a height that exceed 17 feet on parcels less than 5 acres in AZD, RCD, RC, RR, CAR, and CR.

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- 18. Day care group in AZD, RCD, RC, RR, CAR, CR, V, IV and IVCA provided:
 - a. Outdoor activity areas are fenced and screened.
 - b. Two drop-off/pick-up parking spaces are provided.
 - c. Structured play areas for active play or play structures are not in the front yard and are 10 feet from the side or rear property line.
 - d. The structure retains its residential character.
 - e. Day care in the RCD shall be in dwellings existing prior to December 1, 1985.

18.1 DATA PROCESSING CENTERS IN AZD

A. PROJECTS ARE LIMITED TO LARGE-SCALE, DATA PROCESSING

- CENTERS ON A MINIMUM OF 200 ACRES.**
- B. PROJECTS ARE LIMITED TO UPTIME INSTITUTE’S TIER III- AND TIER IV-ELIGIBLE, PROPOSED FACILITIES.**
 - C. APPLICANTS MUST ADDRESS THEIR APPROACH FOR UPTIME INSTITUTE’S TIER RATINGS AND PAST SUCCESSES.**
 - D. PROPOSED PROJECTS FOR REVIEW MUST INDICATE ALL POTENTIAL BUILDING-FOOTPRINT EXPANSION AREAS.**
 - E. SUFFICIENT LANDSCAPE BUFFERING AND ALL SECURITY STRUCTURES MUST BE INDICATED ON A *SITE PLAN*.**
 - F. THE PROPOSED USE MUST NOT CREATE AN UNACCEPTABLE IMPACT BY WAY OF NOISE, ODOR, NOXIOUS MATERIALS OR OTHER NUISANCES.**
 - G. THE SITE MUST HAVE ACCESS TO A PUBLIC ROAD ADEQUATE TO HANDLE TRAFFIC GENERATED. THE PROPOSED USE SHALL NOT GENERATE TRAFFIC OF A TYPE OR AMOUNT INAPPROPRIATE FOR ALL ACCESS ROADS AND THE SURROUNDING AREA.**
 - H. THE APPLICANT HAS RECEIVED APPROVAL FROM THE APPROPRIATE STATE OF MARYLAND AGENCIES.**

19. Dog kennels, commercial in RC, RR and CAR provided that any open dog pens, runs, cages, or kennels shall be at least 200 feet from any side or rear lot line.

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BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the ____ day of _____.

Read Third Time _____

PASSED this ____ day of _____

Failed of Passage _____

By order of:

Sondra M. Blackiston, Clerk

(SEAL)

THE COUNTY COMMISSIONERS OF KENT
COUNTY, MARYLAND

P. Thomas Mason, President

Ronald H. Fithian, Member

Robert N. Jacob, Jr., Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.

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