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 Provisions, 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.

INTRODUCED, read first time, February 18, 2020, ordered posted and public hearing scheduled May 26, 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.

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 May 26, 2020. Reported favorably [with] [without] amendments; read a second time and ordered to be considered on June 2, 2020, a legislative session day.
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

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

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

26. DATA PROCESSING CENTERS

ARTICLE V.
DISTRICT REGULATIONS

SECTION 7. VILLAGE DISTRICT

7.2 PERMITTED PRINCIPAL USES AND STRUCTURES

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

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.

26. DATA PROCESSING CENTERS, SUBJECT TO SITE PLAN REVIEW
ARTICLE V.
DISTRICT REGULATIONS

SECTION 8. INTENSE VILLAGE

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 facade of the center and any other facade 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

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

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

BILL NO. 3-2020, as amended by interlineation, indicated by double-strike-through CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW. Strike-through indicates all matter deleted from existing law in the introduced BILL.
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

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, 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.

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 of 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

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

... 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 of providing year-round screening, is provided along any side that does not provide solar collection.
   c. Roof mounted solar collection devices shall not extend 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

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 THATExplains 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

...
1.3 PARKING REQUIREMENTS

Residential ... 2 per dwelling unit

Convalescent Home 1 per 5 patient beds

DATA PROCESSING CENTERS 1 PER EMPLOYEE AT MAXIMUM OCCUPANCY

ARTICLE VII.
SPECIAL EXCEPTIONS

SECTION 6. PROCEDURES

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.

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

1. DATA PROCESSING CENTERS
   1. Dog kennels, commercial
   2. Dormitories for employees
   3. Exposition center or fairgrounds
   4. Farm employee housing
   5. More than four horses and mules on land less than 20 acres in size
   6. Private clubs
   7. Public landings
   8. Raising of small animals
   9. Rifle and pistol ranges
   10. Single family dwellings
   11. 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.

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, eages, or kennels shall be at least 200 feet from any side or rear lot line.
BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the 26th day of June, 2020.

Read Third Time June 16, 2020

PASSED this 16 day of June, 2020

Failed of Passage

By order of:

Sondra M. Blackiston, Clerk

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.

BILL NO. 3-2020, as amended by interlineation, indicated by double strike-through CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW. Strike-through indicates all matter deleted from existing law in the introduced BILL.