



**TOWN OF PORT DEPOSIT
ORDINANCE 2020-09**

**AMENDMENT TO THE PORT DEPOSIT ZONING CODE, ARTICLE II BASIC DEFINITIONS AND
INTERPRETATIONS, SECTION 12 DEFINITIONS**

WHEREAS, the Mayor and Council of the Town of Port Deposit may exercise the power conferred upon them by Article III, Section 309 of the Charter of the Town of Port Deposit to pass ordinances or by-laws to enable them to better promote and preserve the public health, safety and welfare of the residents of the town; and

WHEREAS, as per Article V, 501 (50) of the Charter, the Council has the authority to exercise the powers as to planning and zoning, conferred upon municipal corporations generally in The Land Use Article of the Maryland Annotated Code; and

WHEREAS, the Port Deposit Planning Commission held an advertised public hearing on Thursday, October 22, 2020 for public comment on these amendments to multiple sections of the Zoning Code; and

WHEREAS, the Port Deposit Planning Commission recommended adoption of the proposed amendments to multiple sections of the Zoning Code to the Mayor and Council of the Town of Port Deposit; and

WHEREAS, the Mayor and Council of the Town of Port Deposit held an advertised public hearing on Tuesday, December 15, 2020 to receive public comment on the amendments to multiple sections of the Zoning Code.

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Council of the Town of Port Deposit hereby approves and adopts the amendment(s) to Article II Basic Definitions and Interpretation, Section 12 Definitions as follows (revision/addition – **red letters** and deletions ~~striketrough text~~):

ARTICLE II BASIC DEFINITIONS AND INTERPRETATIONS

Part I. Basic Definitions

Section 12. Definitions of Basic Terms

1. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.
2. To amplify and clarify all provisions of this Ordinance, the following rules shall apply:

- a. Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- b. The word "shall" is mandatory and not discretionary.
- c. The word "may" is permissive.

The word "lot" shall include the words "piece", "parcel" and "plots"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrase "arranged for" and "occupied for".

~~Accessory Apartment - a separate complete residential unit that is contained within the structure of a single family unit, a commercial structure, or apartment may be isolated from it.~~

Accessory Building - an accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as the main building or principal use of the land.

Accessory Use - an accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) on the same lot as the principal use of the premises. When "accessory" is used in the text, it shall have the same meaning as "Accessory Use".

Acre - a commonly referred to measurement of area, which equals 43,560 square feet.

Acreage - a parcel of land, regardless of area, described by metes and bounds, which is not a numbered lot on any recorded subdivision.

Activity - any business, industry, trade, occupation, vocation, profession, or other use conducted or carried on either within a building or covered area, or outdoors on any tract or parcel of land. For zoning purposes, an activity shall be considered separately from any building or structure in which such activity may be conducted.

Adaptive Reuse - adapting an existing historic building for a new use while retaining its historic features.

Adjusted Tract Acreage - the net usable land area of a proposed development site, determined by deducting specific percentages of various categories of constrained land from the gross tract area.

Cluster development - a residential development to which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

Colonial nesting water birds - herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

Commercial harvesting - a commercial operation that would alter the existing composition or profile, or both, of a forest, including all commercial cutting operations done by companies and private individuals for economic gain.

Commission - the Planning Commission of the Town of Port Deposit.

Commercial - a type of activity where goods or services are sold or traded with the expectation of profit or gain.

~~Commercial Apartment - an accessory dwelling unit located above a non-residential structure on the same lot.~~

Common Area - any open space, private road or other land, structure or improvement, which is designed or reserved for the common use or benefit of the owners of two or more lots. "Common area" does not include any public road or other land, structure or improvement owned by the Town or the State of Maryland or any other governmental agency.

Community Piers - boat docking facilities associated with subdivisions and other similar residential areas, condominiums, and apartments. Private piers are excluded from this definition.

Compatibility - provision of exemplary site design, architectural design and high quality materials that are compatible with, and does not negatively alter the character of, the existing neighborhood.

Comprehensive Plan/The Comprehensive Plan of Port Deposit, Maryland - a document consisting of written and mapped information, adopted by the Mayor and Town Council, and intended to guide the physical development of Port Deposit, including all changes and additions to the plan.

Condominium - a form of ownership consisting of an undivided interest in common with other owners in a portion of a parcel of real property, together with separate interest in space in a building, such as a townhouse, apartment or office, established pursuant to Maryland law. A condominium may include, in addition, a separate interest in other portions of such real property.

Conservation Easement - a non-possessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

Continuing Care Retirement Communities – retirement communities with accommodations for independent living, assisted living, and nursing home care, offering residents a continuum of care. A person can spend the rest of his/her life in a CCRC, moving between levels of care as needed.

Developed Woodlands - areas one acre or more in size that predominantly contain trees and natural vegetation and that also include residential, commercial, or industrial structures and uses.

Developer - a person who is responsible for any undertaking that requires a zoning permit, conditional-use permit, sign permit, site plan, or subdivision approval.

Development or Development Activities (includes the term "develop") - any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land or action that results in construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land.

Development Envelope - developed portion of a parcel or tract of land that encompasses all lots, structures, required buffers exclusive of the tidewater buffer if it is at least 300 deep, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use as active recreation areas, and any additional acreage needed to meet the development requirements of the Port Deposit Critical Area Program.

Distillery, Micro – an establishment that distills spirits.

District - any section of the Town of Port Deposit within which the zoning regulations are uniform.

Drive-in establishment - a place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allows the consumption of any food or beverage obtained from a carry-out window in automobiles or elsewhere on the premises.

Documented Breeding Bird Areas - forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

Dog Kennel, Commercial - any place where more than 2 adult dogs are kept for a boarding or other fee, or any place where more than 4 adult dogs are kept for any purpose. (See also definition for "kennel").

Driveway - that portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

~~Duplex— A building on one lot arranged and design to be occupied by two (2) families living independently of each other. For purposes of this definition a building of two or more stories that is divided horizontally into two dwelling units each of which has an independent entrance either directly or through a common vestibule shall be known as a duplex. A building that is divided vertically by a common wall above and below the finished grade into two dwelling units each of which has an independent entrance either directly or through a common vestibule shall be known as a semi-detached dwelling.~~

~~Dwelling— any building or portion thereof, designed or used for residential purposes, except trailers or mobile homes.~~

~~Dwelling, attached— a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.~~

Dwelling - A building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multi-family dwellings (not including hotels and motels).

Dwelling, Accessory Apartment – a separate dwelling unit located within a detached dwelling unit or retail or service establishment. Accessory apartments may also be contained within an accessory building on the same lot as an existing detached dwelling.

Dwelling, Attached - A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, Detached - A building containing one (1) dwelling unit on one (1) lot and detached from any other dwelling.

Dwelling, Duplex - A building containing two (2) attached dwelling units which share a common wall and which are on one lot.

Dwelling, Multi-Family - A building containing three (3) or more attached dwelling units which share common walls and/or roof and a separate entry for each unit. This definition includes townhouses and apartments.

Dwelling, Semi-detached - A building containing two (2) attached dwelling units which share a common wall at the lot line and which are on separate lots.

Dwelling, Townhouse - A building containing three (3) or more attached dwelling units in a row, having access from the front and rear of the dwelling.

~~Dwelling, Semi-detached – a building that is divided vertically by a common wall above and below the finished grade into two dwelling units each of which has an independent entrance either directly or through a common vestibule shall be known as a semi-detached dwelling.~~

~~Dwelling, Single Family – a building designed for or occupied exclusively by one family.~~

~~Dwelling, Two Family (also known as Dwelling, Twin Home) – a building designed for or occupied exclusively by 2 families living independently of each other and consisting of two single family dwelling units, each dwelling unit occupying its own conventional lot and conveyed by deed in fee simple, connected along a common party wall with no interior circulation between the two.~~

Dwelling Unit - a room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone.

Dwelling Unit – Critical Area – A single unit providing complete independent living facilities for at least one person including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or caretaker residence.

~~Dwelling, Multi-Family - a structure arranged or designed to be occupied by 3 or more families on a single parcel or on contiguous parcels under the same ownership.~~

Earth Satellite Antenna (also called "satellite dish" or "dish") - a parabolic dish antenna or other device or equipment of whatever nature or kind, including its structural supports, the primary use of which is to receive television, radio, microwave, or other electronic signals from space satellites.

Ecosystem - a more or less self-contained biological community together with the physical environment in which the community's organisms occur.

Electronic vaping device - Any electronically powered or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof.

Elderly or Handicapped People:

- a. People who are 62 years of age or over.
- b. Families where either the husband or wife is 62 year of age or older.
- c. Handicapped people if determined to have physical impairments which (a) are expected to be of long continued and indefinite duration, (b) substantially impede the ability to live independently, and (c) are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

Emergency Services - fire, rescue, ambulance and police services including related structures and activities.

Endangered Species - any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be "endangered" species pursuant to the federal Endangered Species Act, 16 USC. §1531 et seq., as amended.

Environmental Assessment - a comprehensive report that describes the natural features and characteristics of a proposed development site, the changes that will occur as the result of proposed development activities on the site, the anticipated environmental impacts and consequences of the proposed development, and mitigation measures to be taken to minimize undesirable impacts to the environment.

Escort Services and/or Escort Agencies - a service or agency of any type of business association that furnishes, offers to furnish or advertises to furnish escorts for a fee or other monetary consideration. An escort shall be defined as a person, who for monetary consideration, agrees to or acts as a companion, guide, or date for another person.

Excess stormwater run-off - all increases in stormwater resulting from:

1. An increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots;

2. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
3. Alteration of drainageways, or regrading of slopes;
4. Destruction of forest; or
5. Installation of collection systems to intercept street flows or to replace swales or other drainageways.

Family - one or more persons living together as a single housekeeping unit.

Family Day Care – See Child Care Center.

Farmers Market - a retail market selling predominantly locally produced fruits, vegetables, crafts, and meats.

Fence or Wall - a barrier, other than natural vegetation, intended to mark a boundary or to enclose an area to provide screening or privacy.

Fishery - a parcel or building where commercial water dependent fishery facilities are located, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians and reptiles, including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

Fisheries Activities - commercial water dependent fisheries facilities including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

Floor Area:

1. *Commercial business and industrial buildings or buildings containing mixed uses:* the sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings but not including (a) space providing headroom of less than 7 feet; (b) basement space not used for retailing; (c) uncovered steps or fire escapes; (d) accessory water towers or cooling towers; (e) accessory off-street parking spaces; and (f) accessory off-street loading berths.
2. *Residential buildings:* the sum of the gross horizontal areas of the several floors of a dwelling measured from the exterior faces of the exterior walls.

Forest - for purposes of the Critical Area, forest is defined as biological community dominated by trees and other woody plants covering a land area of one acre or more. This also includes forests that have been cut but not cleared. For purposes of the Forest Conservation contained herein see Article XVII.

Forest Interior Dwelling Birds - species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

Recreation Facility - a place designated and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Reclamation - the reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including waterbodies.

Redevelopment:

1. Construction in previously developed areas which may include the demolition of existing structures and building new structures, or the substantial renovation of existing structures. Projects tend to be somewhat larger and more complex than infill projects; and
2. The re-use of previously used, non-agricultural land. All redevelopment projects must first be approved by the Historic Area Commission.

Reforestation - the establishment of a forest through artificial reproduction or natural regeneration.

Regulations - the whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Ordinance.

Renewable Resource - a resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.

Residence, commercial apartment-A multi-family residence located above the principal commercial use.

~~Residence, Multi-Family - a residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch) (e.g. townhouses and apartments).~~

~~Residence, Primary with Accessory Apartment - a residential use having the external appearance of a single family residence but in which there is located a second dwelling unit.~~

Resource Conservation Areas (RCA) - areas characterized by nature- dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). These areas shall have had at least one of the following features as of December 1, 1985:

1. Density is less than one dwelling unit per five 5 acres; or
2. Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

Restaurants:

1. *Restaurant, standard-A* food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a

table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.

2. *Restaurant, fast food*-an establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.

Tourist Court, Auto Court-Same as "Motel".

Tourist Home - a private, owner-occupied home in which bedrooms are rented to tourists or travelers.

Tower - any structure whose principal function is to support an antenna.

Town Administrator- the Port Deposit Town Administrator. Also referred to as "administrator."

~~Town House—a single family dwelling forming one of a series of three or more attached single family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof, and having roofs which may extend from one such dwelling unit to another.~~

Tract-A lot (see definition) - the term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one "tract" is subdivided into several "lots".

Transitional Habitat - a plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.

Travel Trailer - a structure that (a) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (b) is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definitional criteria of a mobile home.

Tree - a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

Tributary Streams - perennial and intermittent streams in the Critical Area that are so noted on the most recent U.S. Geological Survey 7.5' topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the Town.

Unwarranted Hardship – a situation whereby without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which a variance is requested.

Use - the purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, permitted - a use which may be lawfully established in a particular district or districts provided it conforms with all regulations, requirements, and standards of such district.

Use, Principal - a use listed in the Table of Permissible Uses.

Utility Facilities - community or Regional-all utility facilities other than neighborhood facilities.

EFFECTIVE DATE

Ordinance 2020-09 was adopted on the 5th day of January, 2021 and shall take effect on the 25th day of January, 2021 as per Article III, Section 309 of the Charter of the Town of Port Deposit, and shall be published at least once in a newspaper having general circulation within the Town of Port Deposit.

ADOPTED: January 5, 2021

EFFECTIVE DATE: January 25, 2021

IN WITNESS WHEREOF, we have set our hands and seals, and adopted Ordinance 2020-09 this 5th Day of January, 2021.

Affirmative 4

Absent 0

Negative 0

Abstained 0


THE TOWN OF PORT DEPOSIT
By The Mayor and Town Council:


ATTEST:


Town Administrator


Christopher Broomell, Council


Kevin Brown, Council


Wayne L. Tome, Sr., Mayor


Robert Kuhs, Deputy Mayor


Thomas Knight, Council