
1 **ARTICLE 4. OVERLAY DISTRICTS AND FLOATING ZONES**

2 **CHAPTER 40 OVERLAY DISTRICTS, FLOATING ZONES:**
3 **PURPOSE, STANDARDS, PERMITTED USES**

4 Sections:

- 5 40.1 Purpose of the Chesapeake Bay Critical Area Overlay.
6 40.2 Purpose of the Historic Landmarks and Districts Overlay.
7 40.3 Purpose of the Air Installations Compatible Use Zone and Airport Environs Overlay.
8 40.4 Purpose of the Planned Unit Development (PUD) Floating Zone.
9 40.5 Development Standards.

10 **40.1. Purpose of the Chesapeake Bay Critical Area Overlay.**

11 1. The Chesapeake Bay Critical Area Overlay implements Comprehensive Plan policies to protect
12 land and water resources in the Chesapeake Bay Critical Area. The developmental and land use
13 controls within the overlay will minimize adverse impacts on water quality from run off from
14 surrounding lands. It will conserve fish, wildlife, and plant habitat. Finally, this district
15 establishes land use regulations for development that accommodates growth and also addresses the
16 fact that, even if pollution is controlled, the number, movement, and activities of persons in that
17 area can create adverse environmental impacts.

18 2. Land use development standards and requirements established in Chapter 41 are intended to foster
19 more sensitive development activity for shoreline areas and to minimize the adverse impacts of
20 development and land use activities on water quality and natural habitats pursuant to the Natural
21 Resources Article, Subtitle 18 of the Annotated Code of Maryland and COMAR 27.01.

22 **40.2. Purpose of the Historic Landmarks and Districts Overlay.**

23 The Historic Landmarks and Districts Overlay implements Comprehensive Plan policies to recognize the
24 unique contribution of St. Mary's County to state and national history, including recognition of the
25 County's distinct rural historic landscape. This overlay promotes the conservation, preservation,
26 protection, and enhancement of historic resources, including sites, structures, and districts significant in
27 history, architecture, archaeology, or culture that serve as visible reminders of the County's heritage. This
28 overlay district seeks to deter demolition, destruction, alteration, misuse, or neglect of historically,
29 architecturally, archaeologically, or culturally significant sites or structures. By conserving historic
30 resources, the district will preserve and enhance the quality of life and promote the economic prosperity
31 and welfare of the County.

32 **40.3. Purpose of the Air Installations Compatible Use Zone and Airport Environs Overlay.**

33 1. The Air Installations Compatible Use Zone (AICUZ) and Airport Environs (AE) Overlay is
34 established to ensure land use compatibility around federal and municipal airports in the County,
35 including, the Patuxent River Naval Air Station, Webster Field at St. Inigoes, St. Mary's County
36 Regional Airport in Hollywood, and future similar airport, air field, or heliport operations
37 approved in the County.

38 2. Land use development standards and requirements established in Chapter 43 are intended to
39 minimize exposure to aircraft noise, minimize risks to public safety, and minimize hazards to
40 aviators and those employed or residing in proximity to public aviation facilities. Each overlay
41 establishes a hierarchy of sub-districts with restrictions dependent on the location of lands in
42 relation to airport operations. The most stringent restrictions apply to land located closest to the
43 airport, and the least stringent apply to lands located farther from the airport but within the
44 boundary of this Overlay district.

45 **40.4. Purpose of the Planned Unit Development (PUD) Floating Zone.**

46 1. The Planned Unit Development Floating Zone (PUD) is intended to provide flexibility in planning
47 for development of projects.

- 1 2. Land use development standards and requirements established in Chapter 44, Planned Unit
2 Development (PUD), are intended to:
- 3 a. Ensure orderly and thorough planning and review procedures that will result in quality
4 design; protection of open space, sensitive areas, and agricultural lands; and the creation
5 and improvement of common open space and coordination of vehicular, pedestrian, and
6 bicycle circulation.
- 7 b. Establish a procedure for the development of land under unified control in order to
8 achieve efficient land use patterns while permitting creative and innovative approaches to
9 the development of residential, commercial, and industrial uses in the designated zoning
10 districts.
- 11 c. Encourage mixed development patterns and avoid monotony in large developments by
12 allowing greater freedom in selecting the means to provide access, light, open space, and
13 amenities.
- 14 d. Allow a developer to take advantage of special site characteristics, locations, or land uses.
- 15 e. Provide for relief from the strict application of the land use standards, development
16 regulations, and performance standards found in the base zoning districts.
- 17 f. Decrease the burden created by new development on utilities and other infrastructure
18 systems by permitting mixed use development consistent with Smart Growth directives.
- 19 g. Provide a mechanism for increasing development in growth areas, where the
20 Comprehensive Plan directs additional development be accommodated, without
21 adversely affecting traffic circulation, infrastructure and public services and existing or
22 planned adjacent development.
- 23 h. The extent of uses allowed in a base zone shall be limited by action of the Board of
24 County Commissioners in order to maintain the essential character of the area in which
25 the PUD is placed. Therefore, the development of uses within a PUD that would not
26 otherwise be permitted in the base zone shall not adversely affect that zone.

27 **40.5. Development Standards.**

- 28 1. **Overlay and Floating Standards**
- 29 a. The development standards for the base zone (Schedules 32.1 and 32.2) shall govern,
30 unless explicitly modified through the approval of a PUD.
- 31 b. Additional proffers of amenities, public facilities or increased resource protection not
32 included in the table may be considered by the Board of County Commissioners for
33 PUDs.
- 34 c. Wherever more than one overlay applies the most restrictive criteria shall be used.

SCHEDULE 40.5 DEVELOPMENT STANDARDS WITHIN OVERLAYS

	Chesapeake Bay Critical Area (CBCA) Overlay		
	RCA	LDA	IDA
Residential Density			
Base Density (units per acre)	1/20		--
Maximum. Density	1/20	--	--
Non-Residential Density			
Base FAR	0.05	--	--

36 -- Not regulated, the base zone requirements apply.

- 37 2. **Location Within Base Zoning Districts.** Base zoning districts may host planned unit
38 developments upon finding by the Board of County Commissioners that the essential character of
39 the area in which the PUD is placed will be maintained.

1 **CHAPTER 41 CHESAPEAKE BAY CRITICAL AREA (IDA, LDA, RCA)**

2 Sections:

- 3 41.1 Applicability.
- 4 41.2 Lots of Record and Grandfathering.
- 5 41.3 Overlay Mapping and Zoning Designations.
- 6 41.4 Intensely Developed Area (IDA) Overlay District.
- 7 41.5 Limited Development Area (LDA) Overlay District.
- 8 41.6 Resource Conservation Area (RCA) Overlay District.
- 9 41.7 Buffer Management Overlay Designation.
- 10 41.8 Water Dependent Facilities Designation.
- 11 41.9 Growth Allocation Process.

12 **41.1. Applicability.**

- 13 1. This chapter applies to the St. Mary's County Chesapeake Bay Critical Areas, the same being all
14 water of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on
15 the State wetlands maps, and all State and private wetlands designated under Title 16 of the
16 Environment Article; and all land and water areas within 1,000 feet beyond the landward
17 boundaries of State or private wetlands and the heads of tide designated under Title 9 of the
18 Environment Article.
- 19 2. The St. Mary's County Critical Area Overlay zones are superimposed on base zoning districts
20 within the St. Mary's County Chesapeake Bay Critical Area and impose regulations that are in
21 addition to those established in the base zoning districts and any other applicable floating or
22 overlay zone. In the event of any inconsistency between the Critical Area provisions and the
23 provisions of the base zoning district or an applicable floating or overlay zone, the more restrictive
24 provision shall apply.
- 25 3. No person shall develop, alter, or use any land for residential, commercial, industrial, or
26 institutional uses, nor conduct agricultural, fishery, or forestry activities in the St. Mary's County
27 Critical Area except in compliance with the applicable provisions of this Ordinance.
- 28 4. When the St. Mary's County Critical Area overlay covers only a portion of a property, overlay
29 density shall apply on that portion of the property within the overlay and the underlying zone
30 density shall apply on that portion outside the overlay, provided that in no case shall the resulting
31 gross density for the parcel exceed that allowed in the underlying zone.
- 32 5. All local government development activities in the Chesapeake Bay Critical Area will be
33 implemented consistent with the requirements of COMAR 27.02.02 and 27.02.04.

34 **41.2. Lots of Record and Grandfathering.**

- 35 1. Any use or structure within the St. Mary's County Critical Area existing or established before
36 March 27, 1990, that has not been abandoned for more than one year, regardless of any intention
37 to abandon or not, but which does not conform with the provisions of this chapter may continue.
38 Such use or structure, however, may not be reconstructed, intensified or expanded except in
39 accordance with this Ordinance. A nonconforming structure or a structure containing a
40 nonconforming use, which is destroyed by fire or other calamity, may be restored in accordance
41 with Section 52.5 of this Ordinance.
- 42 2. New uses within the St. Mary's County Critical Area shall conform to the provisions of this
43 Ordinance. A single, undeveloped lot or parcel of land that was legally of record on the date of the
44 County's Critical Area Program approval (March 27, 1990) may be improved with one single-
45 family dwelling, notwithstanding that such development may be inconsistent with the density
46 provision of this chapter.

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- 1 3. Development meeting the Resource Protection Standards set forth in the Zoning Ordinance may
2 occur on land that was:
- 3 a. Subdivided into recorded, legally buildable lots, where the subdivision received the
4 County's final approval prior to June 1, 1984, provided that these lands are brought into
5 compliance with the requirements of this chapter insofar as possible, which shall include,
6 but not be limited to, the consolidation or reconfiguration of adjacent lots in common
7 ownership to achieve a density more in keeping with the density and habitat protection
8 requirements of this chapter. Consolidation of lots in common ownership shall not be
9 required when impacts to steep slopes or Habitat Protection Areas would result or would
10 increase as a result of the consolidation proposal.
- 11 b. Subdivided into recorded, legally buildable lots, where the subdivision received the
12 County's final approval after December 1, 1985, if the lots conform to the standards of
13 the St. Mary's County Critical Area Overlay district, the lots receive growth allocation to
14 permit the proposed development, or a variance is properly approved.
- 15 c. Subdivided into recorded, legally buildable lots, where the subdivision received the
16 County's final approval between June 1, 1984 and December 1, 1985, and the applicant
17 demonstrates that the lot meets all Critical Area criteria effective at the time of
18 subdivision approval.
- 19 d. Subdivided as part of a planned unit development that received final approval from the
20 County Commissioners prior to December 1, 1985, and which has met the requirements
21 of this Ordinance and any conditions of project approval.
- 22 4. The following subdivisions and planned unit developments in St. Mary's County meet the
23 grandfathering criteria and do not require County growth allocation:
- 24 a. Esperanza Farms (Sections 10, 11, and 12)
- 25 b. Mulberry South
- 26 c. Rosebank Village
- 27 d. Breton Bay Garden Apartments (p/o Lansdale)
- 28 e. The Landings at Piney Point (originally known as Piney Point Landing PUD)
- 29 f. Cedar Cove PUD
- 30 g. Patuxent River Farms PUD (Myrtle Point Park)
- 31 h. Shannon Farms PUD except that this development is exempted from the provisions of
32 Section 41.2.3.d requiring compliance with conditions imposed at the time of rezoning if
33 the county determines that overall Critical Area Program requirements are exceeded, and
34 the Chesapeake Bay Critical Area Commission supports the County's determination.

35 **41.3. Overlay Mapping and Zoning Designations.**

- 36 1. All land within the Chesapeake Bay Critical Area shall be assigned to one of the following overlay
37 districts corresponding to the land use classifications in the St. Mary's County Critical Area
38 Program adopted on March 27, 1990. These districts shall be shown on official Critical Area
39 Overlay Zone Maps and on the Official Zoning Maps:
- 40 a. Intensely Developed Areas (IDA), and
- 41 b. Limited Development Areas (LDA), and
- 42 c. Resource Conservation Areas (RCA).
- 43 2. Land designated within the overlay zones may also be included in a "Buffer Management
44 Overlay." This overlay provides relief from some regulations and standards for development that
45 necessarily occurs within the Critical Area Buffer. The Buffer Management Overlay shall be
46 shown on the Critical Area Overlay Zone Maps and on the Official Zoning Maps.

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- 1 3. **Changes to the Program.** The following standards are established for amending the Critical Area
2 Overlay Zone Maps or program:
- 3 a. *Program review and update.* The County Commissioners may, on their own motion or
4 upon a recommendation from the Planning Commission, amend the Critical Area
5 provisions of this Ordinance and upon receiving a recommendation from the Planning
6 Commission, amend the Critical Area Overlay Zone Maps and the Official Zoning Maps
7 for Critical Area Overlay Zone designation. The Critical Area provisions of this
8 Ordinance and accompanying maps shall be reviewed at least every four years as part of
9 a comprehensive program review.
- 10 b. The Critical Area Overlay Zone and the Official Zoning Maps (for Critical Area Overlay
11 Zone designation) may be amended as part of a review of this chapter, under the process
12 set forth below, or through the growth allocation process described in Section 41.9.
- 13 c. *Mistake in Designation of Critical Area Overlay Districts.*
- 14 (1) During the preparation of the Critical Area ordinances and the accompanying
15 maps, there may have existed some developed areas meeting the test for an LDA
16 or IDA classification that were not so classified due to an oversight. Proof of a
17 mistake in the existing Critical Area Overlay zoning or error in mapping may
18 only be demonstrated by the following:
- 19 (a) Evidence which shows that the assumptions or premises relied upon at
20 the time of the original mapping were invalid, or
- 21 (b) Evidence that the decision process failed to take into account physical
22 facts existing on December 15, 1985, or
- 23 (c) Evidence that the County failed to make any provision to accommodate
24 a project, trend, or need it recognized as existing on December 15,
25 1985.
- 26 (2) The following process is established for consideration of reclassification due to
27 mistake:
- 28 (a) Where evidence of a mistake is provided, application for
29 reclassification to LDA or IDA shall be made to the Planning
30 Commission, which shall forward a recommendation to the Board of
31 County Commissioners.
- 32 (b) The Board shall make a determination as to whether or not the property,
33 as it existed on December 15, 1985, met the test for an LDA or IDA
34 classification under the original rules as set forth in the St. Mary's
35 County, Maryland Ordinance for the Chesapeake Bay Critical Area
36 Program, adopted March 27, 1990.
- 37 (c) If the Board finds that the property met the test and should have been
38 classified as LDA or IDA, then the Critical Area Overlay Zone Maps
39 and the Official Zoning Maps shall be amended to reflect these
40 findings. The amended maps shall be submitted to the Critical Area
41 Commission for approval.
- 42 d. *Other map amendments.*
- 43 (1) Buffer Management Areas shall be processed and mapped in accordance with
44 Section 41.7.
- 45 (2) Growth allocation shall be processed and mapped in accordance with Section
46 41.9.
- 47 (3) Critical Area boundary line changes shall be processed and mapped as
48 comprehensive map amendments.

(4) The Resource Area Maps, incorporated herein by reference, shall be routinely updated in accordance with information from the State of Maryland. These maps, which are available for inspection in the Department of Land Use and Growth Management, were prepared for identifying the characteristics of the Critical Area in need of protection from the impacts of human activity:

- (a) Agricultural lands
- (b) Wetlands
- (c) Tributary streams
- (d) Mineral resources
- (e) Known threatened and endangered species and habitats of species in need of conservation
- (f) Watersheds of anadromous fish-spawning streams
- (g) Soils with development constraints
- (h) Forest resources
- (i) Wildlife habitat
- (j) Steep slopes

e. *State Approval.* Amendments to the Critical Area program and maps shall be approved by the Critical Area Commission before taking effect.

41.4. Intensely Developed Area (IDA) Overlay District.

1. *Intent.* Intensely developed areas are areas of at least 20 acres in size where residential, commercial, institutional, and/or industrial developed land uses predominate and where relatively little natural habitat occurs. The purpose of the Intensely Developed Area (IDA) Overlay District is to:

- a. Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams; and
- b. Accommodate additional development of the type and intensity designated by the County Comprehensive Plan provided that water quality is not impaired; and
- c. Minimize expansion of Intensely Developed Areas into portions of the Critical Area designated as Habitat Protection Areas and Resource Conservation Areas; and
- d. Conserve and enhance fish, wildlife, and plant habitats, to the extent possible; and
- e. Encourage the use of retrofitting measures to address any existing stormwater management problems; and
- f. Protect aquifer recharge areas; and
- g. In order to reduce the impacts on water quality that are generated by development, the County will:
 - (1) Make an assessment of the impact to water quality and biological resources as part of the Critical Area review.
 - (2) Implement best management practices.
 - (3) Use, where appropriate, urban forestry programs, such as street tree plantings, gardens, landscaping, and open land buffer plantings.
- h. Encourage development activities that minimize destruction of forest and woodland vegetation and no net loss of forest.

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- 1 2. **Permitted Uses.**
- 2 a. Uses permitted in the IDA District are shown in Schedule 50.4.
- 3 b. A dwelling unit or other non-water dependent structure on a pier located on State or
4 private wetlands may only obtain a building permit where the project is located in an IDA
5 overlay area, approved by the County and
- 6 (1) The state permit for the construction was issued on or before January 1, 1989 or
7 (2) It can be verified that:
- 8 (a) The pier was in existence on December 1, 1985 as verified by a
9 Department of Natural Resources aerial photograph dated 1985 and
10 accompanied by a map of the area.
- 11 (b) The project does not require an expansion of the pier greater than 25
12 percent of the area of piers or dry docks removed for the same property
13 plus and additional of 10 percent of the water coverage eliminated by
14 removal of piers from the same or other properties. The total expansion
15 may not exceed 35 percent of the original size of piers and dry docks
16 removed.
- 17 c. A permit for repair of existing dwelling or non-water dependent structure may be issued.
18 Expansion of such structure is only allowed in accordance with b. above.
- 19 d. Except for permits issued under b (1) above, the applicant must demonstrate that the
20 construction of a dwelling unit or other non-water dependent facility on a pier located on
21 state or private wetlands within the Critical Area will have no long-term adverse effect on
22 water quality, demonstrate an improvement in water quality of stormwater runoff in
23 accordance with IDA standards for reduction of pollutants.
- 24 e. Uses that are not permitted are excluded because of their potential for adversely affecting
25 habitat and water quality. These uses may be considered for approval by the Board of
26 Appeals as conditional uses if no environmentally acceptable alternative exists outside
27 the Critical Area, or if the facility is needed to correct an existing water quality or waste
28 management problem.
- 29 3. **Site Development Standards.** The following standards apply to all development activities in the
30 IDA Overlay District:
- 31 a. Development and redevelopment shall be subject to the habitat protection criteria set
32 forth in COMAR at 27.01.09.
- 33 b. A variance shall be required to place new development including expansion of existing
34 development, in the Critical Area Buffer unless the site is also in a Buffer Management
35 Area.
- 36 c. Impervious surface trading in accordance with Section 41.5.3.i.(3) may be allowed within
37 the IDA.
- 38 d. The applicant shall develop and submit a strategy to reduce existing and potential water
39 quality impacts on the site of the proposed development activity. The applicant must
40 submit to the Planning Director documentation necessary to assess water quality and
41 impacts to biological resources prompted by proposals for new development or
42 redevelopment. The Planning Commission may impose conditions upon the proposed
43 development to reduce potential adverse impacts to water quality from the proposed
44 development.
- 45 e. For all proposed development and redevelopment activities, the applicant shall employ
46 technologies that minimize adverse impacts to water quality caused by stormwater runoff
47 from the proposed development.

1 f. The plans for new development and all projects that will disturb more than 250 sq. ft.
2 even those constructed on or traded for existing impervious areas, must provide water
3 quality benefits to provide a 10 percent reduction in pollutant loading from
4 predevelopment levels. Assessment of impact and compliance with this "10 percent rule"
5 in the Critical Area will be determined according to the process described in "Urban
6 Stormwater Quality Guidance for the Chesapeake Bay Critical Area in Intensely
7 Developed Areas," as amended from time to time and subject to the following
8 amendments.

9 (1) Off-site water quality enhancements may be provided if the improvements
10 cannot be accomplished on-site, provided that water quality benefits are
11 equivalent, their benefits are obtained in the same watershed and their benefits
12 can be determined through uses of modeling, monitoring or other computation
13 of mitigation measures.

14 (2) Disturbances of less than 250 square feet on a single-family residential lot are
15 exempt from the 10 percent rule requirements; however, planting an area
16 equivalent to the area of new impervious surface on the lot shall be required.

17 (3) Disturbances of 250 square feet or more on a single-family lot shall not require
18 submission of a standard application and calculation worksheet, but shall select
19 a residential best management practice (BMP) appropriately suited to the site.
20 When site constraints prevent use of recommended residential BMPs, planting
21 of native trees and shrubs is recommended. Planting in lieu of installing a BMP
22 shall meet the following requirements:

23 (a) Plant three trees or nine shrubs for every 100 sq. ft. of new impervious
24 surface in the Buffer or in the Buffer Management Overlay.

25 (b) Plant one tree or three shrubs per every 100 square feet of new
26 impervious surface outside Buffer areas.

27 (c) A combination of trees and shrubs is acceptable.

28 (d) This planting shall be in addition to any planting required as a result of
29 clearing on the lot.

30 (e) A planting agreement shall be required, and said agreement shall be
31 executed for all planting.

32 (f) If on-site planting and BMPs are impracticable due to site constraints,
33 the applicant may pay a fee-in-lieu calculated on the tree planting
34 requirements of this subsection.

35 g. Retention and/or creation of areas of public access to the shore, such as foot paths, scenic
36 drives, and other public recreational facilities shall be provided to the extent possible.

37 h. Cluster development shall be used to the extent possible as a means of reducing
38 impervious areas and of maximizing areas of natural vegetation.

39 i. Ports and industries that use water for transportation and derive economic benefits from
40 shore access shall be located near existing port facilities.

41 4. **Maximum Density.** The IDA Overlay District may not be developed at an overall residential
42 density or non-residential intensity exceeding that allowed by the underlying zone. State tidal
43 wetlands may not be used for density calculations. Private tidal wetlands may be used for density
44 calculations.

45 **41.5. Limited Development Area (LDA) Overlay District.**

46 1. **Intent.** Limited Development Areas are those areas developed in low or moderate intensity uses
47 that contain areas of natural plant and animal habitats and from which the quality of runoff has not

1 been substantially altered or impaired. The purpose of the Limited Development Area (LDA)
2 Overlay District is to:

- 3 a. Maintain or, if possible, improve the quality of runoff and groundwater entering the
4 Chesapeake Bay and its tributaries.
- 5 b. Maintain, to the extent practicable, existing areas of natural habitat.
- 6 c. Protect water quality, aquifer recharge areas, habitats, and the prevailing character of
7 areas when accommodating additional low or moderate intensity development.
- 8 d. Assure that the overall intensity of development in the LDA is not increased beyond the
9 level established in a particular area so as to change its prevailing character as identified
10 by density and land use currently established in the area.

11 2. **Permitted Uses.**

- 12 a. Uses permitted in the LDA District are shown in Schedule 50.4.
- 13 b. Uses shall not be located in Habitat Protection Areas unless no feasible alternative exists
14 and the Board of Appeals grants a variance meeting the standards of Chapter 24.

15 3. **Site Development Standards.** The following standards apply to all development activities in the
16 LDA Overlay District:

- 17 a. Development and redevelopment shall be subject to the habitat protection criteria set
18 forth in COMAR at 27.01.09.
- 19 b. The applicant shall identify and protect environmental and natural features in accordance
20 with Chapter 71 Resource Protection Standards.
- 21 c. The proposed activity must incorporate provisions to protect Habitat Protection Areas in
22 accordance with provisions of Section 71.8, Habitat Protection Standards.
- 23 d. Roads, bridges, or utilities will only be permitted in Habitat Protection Areas if the
24 applicant can demonstrate that no feasible alternatives exist. In these cases, roads,
25 bridges, or utilities may only be approved when they are located, designed, constructed,
26 and maintained to provide maximum erosion protection, to minimize negative impacts to
27 wildlife, aquatic life, and their habitats; and to maintain hydrologic processes and water
28 quality.
- 29 e. All proposed activities that must cross or affect streams must be designed in accordance
30 with Section 71.4.
- 31 f. All development sites shall incorporate a wildlife corridor system that connects the
32 largest undeveloped or most vegetative tracts of land within and adjacent to the site in
33 order to provide continuity of existing wildlife and plant habitats with off-site habitats.
34 Wildlife corridors shall be maintained by the establishment of conservation easements,
35 restrictive covenants, or similar instruments through which the corridor is preserved by
36 public or private groups, including homeowners associations, nature trusts, and other
37 organizations.
- 38 g. Development in the St. Mary's County Critical Area shall be in accordance with Chapter
39 72, Forest and Woodland Resources in the Critical Area.
- 40 h. Development on steep slopes shall be in accordance with Section 71.7.
- 41 i. Impervious surfaces shall be limited to 15 percent of the lot area for lots and parcels that
42 are larger than ½ acre, and 25 percent of the lot area for lots that are ½ acre or less that
43 existed on or before December 1, 1985, except as specifically noted below:
 - 44 (1) Impervious surface limits may be increased as noted in the table below for lots
45 of one acre or less that existed on or before December 1, 1985, where: a)
46 impervious surfaces have been minimized to the extent possible, b) water quality

impacts associated with run-off from new impervious surfaces are minimized or best management practices have been implemented, and c) on-site mitigation or fees-in-lieu are used to offset potential adverse water quality impacts.

LOT / PARCEL SIZE (SQ. FT.)	IMPERVIOUS SURFACE LIMIT
0-8,000	25% of parcel + 500 sq. ft.
8,001-21,780	31.25% of parcel
21,781-36,300	5,445 sq. ft.
36,301 or greater	15% of parcel

(2) For a lot of one acre or less in size, approved as a part of a subdivision or planned unit development that received final county approval after December 1, 1985, impervious surfaces may not exceed 25 percent and the total impervious surface of the entire subdivision or planned unit development may not exceed 15 percent:

(3) Impervious Surface Trading. The Planning Commission may allow impervious surface trading in accordance with the following:

(a) On any grandfathered parcel or lot that exceeds the impervious surface limits, the existing impervious surfaces may remain, be relocated, or be replaced when the replacement surfaces do not encroach closer to tidal waters, wetlands, or tributary streams than the surfaces they replace; the replacement surfaces are located entirely outside sensitive areas; all areas where surfaces are removed are planted in natural forest vegetation; and all required clearing and footprint of new disturbance is mitigated at a rate of two to one. The applicant shall provide evidence in the form of a sealed survey or photograph that the impervious surfaces to be replaced existed as of March 27, 1990.

(b) On any grandfathered parcel or lot that has impervious surface in the Buffer and no feasible site for the proposed construction exists outside the Buffer, the existing impervious surfaces may be relocated or replaced when the replacement surfaces do not encroach closer to tidal waters, wetlands, or tributary streams than the surfaces they replace; the replacement surfaces are located entirely outside sensitive areas (except the Buffer); all areas where surfaces are removed are planted in natural forest vegetation; all required clearing and an area equivalent to the footprint of new disturbance are mitigated at a rate of two to one; and the total area of replacement impervious surface in the Buffer does not exceed the lesser of the area removed or 1,000 square feet. The applicant shall provide evidence in the form of a sealed survey or photograph that the impervious surfaces to be replaced existed as of March 27, 1990.

j. Modifications of road standards to reduce potential impacts to the site and Critical Area resources will be permitted where the reduced standards do not impair the safety of the road for its intended use.

k. The use of clustering to reduce the extent of impervious areas and maximize areas of natural vegetation is encouraged.

l. A soil erosion and sedimentation control plan will be required for any proposed activities in the Critical Area that involve clearing, grading, transporting or other form of disturbance of land by the movement of earth. The required plan will be consistent with the requirements of the Environment Article, Section 4-101 of the Annotated Code of Maryland, and this Ordinance. Sediment control practices should be appropriately designed to reduce adverse water quality impact and may include mitigation measures to adequately address the identified constraints and avoid adverse impacts on water quality or plant, fish, or wildlife habitat and to avoid erosion.

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- 1 m. Proposed development activities within the Critical Area shall not cause downstream
2 property, watercourses, channels, or conduits to receive stormwater runoff at a higher
3 volume or rate than would result from a 10-year storm event were the land in its
4 predevelopment state.
- 5 n. All sediment control and stormwater management facilities must be designed with
6 sufficient capacity to achieve the water quality goals of the Critical Area program, and to
7 manage runoff caused by the development in excess of that which would have come from
8 the site if it were in its predevelopment state so that said excess runoff shall not leave the
9 site at a rate faster than it would have in its predevelopment state.
- 10 4. **Maximum Density.** The LDA Overlay District may not be developed at an overall residential
11 density or non-residential intensity exceeding that allowed by the underlying zone. State tidal
12 wetlands may not be used for density calculations. On-site private tidal wetlands and all nontidal
13 wetlands may be used for density calculations.
- 14 **41.6. Resource Conservation Area (RCA) Overlay District.**
- 15 1. **Intent.** Resource Conservation Areas are those areas characterized by nature-dominated
16 environments (that is, wetlands, forest, abandoned fields) and resource utilization activities (that
17 is, agriculture, forestry, fisheries activities, or aquaculture). The purpose of the RCA Resource
18 Conservation Area Overlay District is to:
- 19 a. Conserve, protect, and enhance the overall ecological values of the Critical Area, its
20 biological productivity and its diversity;
- 21 b. Provide adequate breeding, feeding, and wintering habitats for those wildlife populations
22 that require the Chesapeake Bay, its tributaries, or coastal habitats in order to sustain
23 populations of those species;
- 24 c. Conserve the land and water resource base that is necessary to maintain and support land
25 uses such as agriculture, forestry, fisheries activities, and aquaculture; and
- 26 d. Conserve the existing developed woodlands and forests for the water quality benefits that
27 they provide.
- 28 2. **Permitted Uses.**
- 29 a. Uses permitted in the RCA District are shown in Schedule 50.4. As set forth therein, new
30 industrial, commercial, and institutional uses are prohibited in the Resource Conservation
31 Area overlay. Such new uses must obtain approval for growth allocation and land must
32 be rezoned to either IDA or LDA as set forth in Section 41.9, Growth Allocation Process.
- 33 b. New development and uses are not permitted to be located in Habitat Protection Areas
34 unless no feasible alternative exists and the uses are approved by the Board of Appeals as
35 a variance meeting the standards of Chapter 24.
- 36 3. **Site Development Standards.** Development activity within the RCA Overlay District shall
37 conform to the site development standards for the LDA Overlay District, established in Section
38 41.5.
- 39 4. **Maximum Density.** Except as otherwise provided in this chapter, properties within the RCA
40 Overlay District may not be developed at an overall residential density exceeding one dwelling
41 unit per 20 acres. State tidal wetlands may not be used for density calculations. Private tidal
42 wetlands and nontidal wetlands may be used for density calculations to the extent that the density
43 of development on the upland portion of the parcel may not exceed 1 dwelling unit per 8 acres,
44 and the area of private tidal wetlands shall be estimated on the basis of vegetative information as
45 designated on the Official State Tidal Wetland Maps.
- 46 a. Subdivisions of land that exceed the one dwelling unit per 20 acre density may be
47 allowed for bona fide intrafamily transfers

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- 1 (1) Bona fide intrafamily transfers within the RCA Overlay District may be made
2 only from parcels of land that:
- 3 (a) Were of record on March 1, 1986, and
4 (b) Are at least 7 but less than 60 acres in size within the Critical Area.
- 5 (2) Bona fide intrafamily transfers within the RCA Overlay District are subject to
6 the County's Subdivision Ordinance in addition to the following limitations:
- 7 (a) A parcel that is at least 7 acres and less than 12 acres may be
8 subdivided into two lots.
- 9 (b) A parcel that is at least 12 acres and less than 60 acres in size may be
10 subdivided into three lots. The lots may be created at different times.
- 11 (c) Any deed for a lot that is created for a bona fide intrafamily transfer
12 shall contain a covenant stating that the intra-family transfer lot is
13 created subject to the provisions of the Critical Area program. Such
14 covenant shall also be stated on the subdivision plat.
- 15 (3) Lots created under this section may not be conveyed subsequently to any person
16 other than a member of the owner's immediate family, except upon the approval
17 of a request for exception filed in the Department of Land Use and Growth
18 Management that, at a minimum, includes the following assurances and
19 information:
- 20 (a) The lot was created as part of a bona fide intrafamily transfer and not
21 with the intent of subdividing the original parcel of land for purposes of
22 ultimate commercial sale, and
- 23 (b) A description of the change in circumstances that has occurred since the
24 bona fide intrafamily original transfer was made is not inconsistent
25 with the Critical Area program and warrants an exception.
- 26 (4) The request for an exception shall be submitted to the Planning Director for
27 referral to the TEC, which shall make a finding whether the exception is
28 warranted. Exceptions hereunder may be granted only by the Planning
29 Commission after consideration of the report of the TEC. To grant an exception
30 hereunder, the Planning Commission, must find that the lot was originally
31 created as part of a bona fide intrafamily transfer and that a legitimate change of
32 circumstance has occurred warranting the requested exception.
- 33 b. Accessory Apartment in the Resource Conservation Area:
- 34 (1) Within the Resource Conservation Area the County may permit one accessory
35 apartment per legally created lot or parcel as part of the primary dwelling unit
36 for the purpose of the density calculation under this subsection when the
37 accessory apartment meets the criteria of Section 51.3.105;
- 38 (a) An accessory apartment permitted in accordance with Section
39 41.7.4.b(1) may not be subdivided or conveyed separately from the
40 primary dwelling unit.
- 41 (b) Any accessory apartment that does not meet the criteria of Section
42 51.3.105 shall be a dwelling unit subject to the density provisions of
43 41.7.4.
- 44 (2) The provisions of this section apply to density calculations only and may not be
45 construed to authorize the County to grant a variance to accommodate
46 construction of an accessory apartment, unless the variance is granted in
47 accordance with the requirements and standards in this ordinance for variances
48 in the critical area.

1 (a) Denial of a variance to construct an accessory apartment in the Critical
2 Area Buffer shall not constitute an unwarranted hardship under this
3 Ordinance.

4 (3) The County shall maintain records of all building permits issued under this
5 section for additional dwelling units considered part of a primary dwelling unit,
6 and shall provide this information on a quarterly basis to the Critical Area
7 Commission.

8 **41.7. Buffer Management Overlay Designation.**

9 1. **Intent.** The Buffer Management Overlay District is established to accommodate limited use of
10 shoreline areas where it has been demonstrated that the existing pattern of development in the
11 Critical Area prevents the Buffer from fulfilling the functions for water quality and habitat
12 protection setout in COMAR 27.01.09.01.

13 2. **Mapping.** The Buffer Management Overlay may be mapped only on lands that meet the following
14 criteria:

15 a. Lots recorded on or before December 1, 1985 whose configuration has not changed, and
16 that were also significantly impacted by development activities that existed as of
17 December 1, 1985 so as to prevent the Buffer from fulfilling its functions to:

18 (1) Provide for removal or reduction of sediments, nutrients and potentially harmful
19 or toxic substances in runoff entering the Chesapeake Bay or its tributaries; and

20 (2) Minimize the adverse effects of human activities on wetlands, shorelines, stream
21 banks, and aquatic resources; and

22 (3) Maintain an area of transitional habitat between aquatic and upland
23 communities; and

24 (4) Maintain the natural habitats of streams; and

25 (5) Protect riparian wildlife habitat.

26 **OR**

27 b. Waterfront parcels and lots less than 200 feet in depth that are within subdivisions of at
28 least nine lots, at least half of which are developed, and contain Buffer intrusion caused
29 by the existing principal structure.

30 **OR**

31 c. Zoned for commercial or industrial use and are less than five acres in size.

32 3. **Permitted Uses.**

33 Uses permitted shall be the same as for the applicable Critical Area Overlay (IDA, LDA or RCA) and the
34 underlying zoning.

35 4. **Development Standards.**

36 a. Development activities may not be approved in the Buffer unless the applicant can
37 demonstrate that there is no feasible alternative and the County finds that the applicant
38 has made efforts to minimize Buffer impacts based on the following guidelines:

39 (1) Development activities shall be located as far as possible from mean high tide,
40 the landward edge of tidal wetlands, or the edge of tributary streams.

41 (2) Variances to other local setback requirements must be demonstrated to be
42 infeasible before intrusion into the Buffer.

43 (3) Convenience or expense shall not be factors considered when evaluating the
44 extent of allowable impacts to the Buffer,

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- 1 (4) Principal or accessory structures in the Buffer may be replaced in the same
2 location. Any increase in impervious area is subject to the other provisions of
3 this section.
- 4 (5) Residential development and redevelopment shall not be closer to the water than
5 principal structures on an adjacent property, or the standard rear yard setback for
6 the underlying zone, or 25 feet, whichever is greater.
- 7 (6) Non-residential development and redevelopment, including both principal and
8 accessory structures, shall not be closer than 50 feet from mean high water or
9 the minimum standard rear yard setback, whichever is greater.
- 10 (7) New structures accessory to a residential use may be permitted in the Buffer in
11 accordance with the following requirements:
- 12 (a) They may be closer to the water or edge of tidal wetlands than the
13 principal structure on the property only if no other location exists for
14 their placement. Placement in a front or side yard subject to variance
15 approval shall be preferred over placement in the Buffer.
- 16 (b) In no case shall a new accessory structure be located within 25 feet of
17 mean high water or edge of state tidal wetlands.
- 18 (c) The area of impervious coverage for all accessory structures on the
19 property is 500 feet or less within 50 feet of the water and 1,000 square
20 feet in the entire Buffer on that property.
- 21 b. All development activities in the Buffer shall require mitigation in accordance with this
22 section.
- 23 c. No natural vegetation shall be removed in the Buffer except that required to perform the
24 proposed construction and install environmental protection measures. The remainder of
25 the Buffer shall be maintained in natural vegetation.
- 26 d. Development shall not impact any Habitat Protection Areas other than the 100-foot
27 Critical Area Buffer and may not occur in the 100-foot Buffer where other habitat
28 protection areas overlap with the 100-foot Buffer. Encroachment into steep slopes;
29 highly erodible soils; nontidal wetlands; and habitats of rare, threatened, and endangered
30 species is prohibited without a variance.
- 31 5. **Mitigation requirements.**
- 32 a. For any development in the Buffer Management Area, a planting agreement with
33 conditions to prevent future removal of vegetation shall be executed in accordance with
34 the provisions of the Forest and Woodland Protection Standards to provide mitigation and
35 enhancement or offsets as follows:
- 36 (1) An area of natural forest vegetation having twice the extent of the footprint of
37 the new impervious surface within the Buffer shall be planted on-site in the
38 Buffer. If it is not possible to carry out the on-site planting, an alternative
39 planting site within the same watershed as the development site may be
40 approved.
- 41 (2) Applicants who cannot comply with the planting requirements set forth above
42 may use offsets to meet mitigation requirements. Offsets may include removal
43 of an equivalent area of impervious surface in the Buffer, construction of a best
44 management practice (BMP) for stormwater, wetland creation or restoration, or
45 other measures that improve water quality or habitat.
- 46 (3) Applicants who cannot comply with either planting or offset requirements are
47 required to pay into the County's Critical Area fee-in-lieu program. The amount
48 of payment shall be based on the cost for the County to plant the area of

1 vegetation required under (1) above and shall be established by Resolution of
2 the Board of County Commissioners.

3 b. In addition to the above requirements, for non-residential development:

4 (1) Non-forested areas within the buffer on the site shall be planted with a minimum
5 of 5 canopy trees, 10 understory trees, 30 shrubs and 40 herbaceous plants per
6 100 linear feet of the buffer yard. Enhancement planting within forested areas
7 will also be required to provide a diverse forest structure with native species of
8 canopy, understory, shrub and herbaceous plants typically found in similar
9 Maryland riparian areas where such does not currently exist on-site. A Planting
10 Plan must be submitted to the Critical Area Commission for review with the site
11 plan in accordance with the provisions of COMAR 27.03.01.03.

12 (2) Unless the development attains Water Dependent Facility designation, a forested
13 or landscaped buffer yard, 25 feet wide, shall be required for the entire extent of
14 the shoreline between the water and all development on the site (both new and
15 existing). On redevelopment sites, if existing impervious surfaces or structures
16 are rebuilt on an existing footprint limit the area available for planting, then
17 modifications to the width of the planted buffer yard may be made on a case by
18 case basis, the promise being that the number of required plants shall not be
19 reduced, although their location may be revised.

20 **41.8. Water Dependent Facilities Designation.**

21 *Intent.* This section establishes policies and procedures for location, construction and operation of water-
22 dependent activities that satisfy the requirements of Critical Area, state and federal law and support the
23 long-range development objectives of St. Mary's County.

24 1. Water-dependent facilities in the Critical Area Buffer shall be limited to those that have minimal
25 individual or cumulative impact on water quality and fish, wildlife and plant habitat in the Critical
26 Area.

27 2. *Permitted Uses.*

28 a. Permitted water-dependent facilities include those structures or works associated with
29 industrial, maritime, recreational, educational, or fisheries activities that cannot exist
30 outside the Critical Area Buffer and are dependent on the water by reason of the intrinsic
31 nature of their operations. Water-dependent facilities include, but are not limited to:
32 charter fishing facilities, public docks, ramps and railways; boatyards; marinas; boatels;
33 commercial piers and ports and marine terminals; industrial and port-related facilities;
34 intake and outfall structures of power plants; water-use industries; public beaches and
35 public water-oriented recreation areas, and fisheries activities. Private piers installed or
36 maintained by individual riparian landowners, which are not part of a subdivision that
37 provides community piers, are excluded from regulation by this Section.

38 (1) Only those specific operations and structures that must occupy the Buffer in
39 order to serve their function may be located in the Buffer. New parking, roads,
40 and storage structures/areas; new eating and drinking establishments; retail sales
41 (other than fuel sales to watercraft); and other non-water dependent activities
42 and structures are prohibited from location in the 100 foot Buffer.

43 (2) Expansion of existing buildings in the Buffer requires a variance unless the
44 structure or facility was anticipated in an approved 5-to-10 year site plan
45 approved at the time of the designation of the site as a water-dependent facility,
46 the expansion is not waterward of the existing encroachment, and planting or
47 offsets are provided in the Buffer for two times the area of impervious surface
48 added. A five to ten year site plan indicates a five to ten year future for a given
49 site. The five to ten year site plan shall be submitted for review by the
50 Department of Land Use and Growth Management as a Concept Plan in
51 accordance with Article 6 of this Ordinance.

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- 1 b. Any activity structure of works permitted within the underlying zone, as set forth in
2 Schedule 50.4 and permitted in the Critical Area Overlay Zone may be approved as a
3 water-dependent facility if the applicant demonstrates that the activity, structure, or
4 works:
- 5 (1) Cannot exist outside the Critical Area Buffer; and
6 (2) Is dependent on the water by reason of the intrinsic nature of its operation.
- 7 c. Private, non-commercial piers having four or fewer slips, private non-commercial ramps
8 or railways, and structures for shore erosion control do not require a water-dependent
9 facility designation. Development of these waterfront facilities shall conform to County
10 requirements for shoreline structures and the County use regulations.
- 11 3. ***Requirements for the Selection/Approval of Areas and Sites.*** The following basic criteria and
12 requirements must be met for all new or expanded water-dependent facilities:
- 13 a. New or expanded development activities may not be allowed in those portions of the
14 Critical Area Buffer that fall in Resource Conservation Areas unless they are water-
15 dependent facilities for: public beaches; other public, water-oriented recreation or
16 education; publicly-owned launching and docking facilities; fishing piers; research
17 facilities or activities; or fisheries and aquaculture facilities, and it can be shown that:
- 18 (1) Adequate sewage disposal facilities exist; and
19 (2) Non water-dependent facilities are located outside the Buffer to the extent
20 possible; and
21 (3) Permeable surfaces are used to the extent practicable; and
22 (4) Disturbance to natural vegetation is minimized; and
23 (5) Design and location criteria are such that the proposed activity will have
24 minimal individual and cumulative impact on water quality and fish, wildlife
25 and plant habitats in the Critical Area; and
26 (6) A fuel spill protection system will be installed.
- 27 b. Within the RCA overlay, any proposal seeking designation as a water-dependent facility
28 for a commercial, industrial, institutional or recreational use other than those permitted in
29 paragraph a, above, must concurrently seek and obtain growth allocation to reclassify the
30 property as LDA or IDA.
- 31 c. New or expanded water-dependent development activities may be permitted in the
32 Critical Area Buffer in Intensely Developed and Limited Development areas for industrial
33 and port-related facilities, marinas and commercial maritime facilities, community piers
34 and noncommercial boat docking and storage facilities, public beaches, or other public
35 water-oriented recreational or educational facilities, including publicly owned launching
36 and docking facilities and fishing piers, research facilities or activities, fisheries, and
37 aquaculture facilities provided that it can be shown that:
- 38 (1) That they are water-dependent;
39 (2) The project meets a recognized private right or public need;
40 (3) Adverse effects on water quality; tidal flow; and fish, plant, and wildlife habitat
41 are avoided or mitigated;
42 (4) Non-water dependent structures or operations associated with water-dependent
43 projects or activities are located outside the Critical Area Buffer; and
44 (5) The facilities are consistent with the Comprehensive Plan.

1 4. **Site Development Standards for Specific Water-Dependent Facilities.**

- 2 a. Development of water-dependent facilities shall conform to the criteria of Section 71.9
3 Standards for Shoreline Resources.
- 4 b. Additional site development standards for specific water-dependent uses are hereby
5 incorporated by reference as set forth in Chapter 51.
- 6 c. If community piers, slips, or moorings are provided as part of a new development, private
7 piers in the development are not allowed. The number of slips, piers or mooring buoys
8 permitted at a community facility shall be the lesser of (1) or (2), below:
- 9 (1) One slip for each 50 feet of shore line in the subdivision in the Intensely
10 Developed Areas and Limited Development Areas and one slip for each 300 feet
11 of shoreline in the Resource Conservation Area according to the following
12 schedule:
- 13 (2) A density of slips, piers or mooring buoys to platted lots or dwellings within the
14 subdivision in the Critical Area according to the following schedule:

Platted Lots or Dwellings in the Critical Area	Slips and Moorings
Up to 15	1 for each lot
16 – 40	15 or 75%, whichever is greater
41 – 100	30 or 50%, whichever is greater
101 – 300	50 or 25%, whichever is greater
Over 300	75 or 15%, whichever is greater

- 15
- 16 5. **Permit Applications for Water-Dependent Facilities.** The applicant shall prepare and submit
17 copies of an environmental water quality report with the appropriate application for site plan
18 approval. Copies of all necessary federal and state permits and approvals (which may be
19 identified before or during the site plan review) shall be submitted to the County before site plan
20 approval is granted.

21 6. **Environmental Water Quality Report Requirements.**

- 22 a. Qualitative factors must be evaluated by the Department of Land Use and Growth
23 Management in evaluating water-dependent development activities. The information
24 necessary for evaluating these factors, if not available locally, shall be obtained from
25 appropriate state and federal agencies. Based on materials submitted by the applicant, the
26 following findings must be made by the Planning Commission in approving the concept
27 plan for a water-dependent facility:
- 28 (1) The activities will not significantly alter existing water circulation patterns or
29 salinity regimes;
- 30 (2) The water body upon which these activities are proposed has adequate flushing
31 characteristics in the area;
- 32 (3) Disturbance to wetlands, submerged aquatic plant beds, or other areas of
33 important aquatic habitats will be minimized;
- 34 (4) Adverse impacts to water quality that may occur as a result of these activities,
35 such as non-point source runoff and sewage discharge from land activities,
36 vessels, or boat cleaning operations are minimized;
- 37 (5) Shellfish beds will not be disturbed or made subject to discharge that will render
38 them unsuitable for harvesting;
- 39 (6) Dredging shall be conducted in a manner and using a method that causes least
40 disturbance to water quality and aquatic and terrestrial habitats in the area
41 immediately surrounding the dredging operation or within the Critical Area
42 generally;

(7) Dredged spoil will not be placed within the Buffer or elsewhere in that portion of the Critical Area that has been designated as a Habitat Protection Area except as necessary for:

- (a) Backfill for permitted shore erosion protection measures;
- (b) Use in approved vegetated shore erosion projects;
- (c) Placement on previously approved channel maintenance spoil disposal areas; and
- (d) Authorized and approved beach nourishment;

AND

(8) Interference with the natural transport of sand will be minimized.

b. The materials submitted will be considered binding upon the applicant as an element of the site development process.

7. **Responsibilities for Impacts.** The developer, owner, and/or operator of any water-dependent facility shall be responsible for all impacts to the Buffer or water quality beyond those impacts permitted under County, state or federal permits.

8. **Identification of Future Area**

- a. Upon the direction of the Board of County Commissioners and with approval of a program amendment or refinement by the Chesapeake Bay Critical Area Commission, the Planning Commission may recommend the designation of additional areas of the IDA and LDA using the criteria and process above and other relevant factors indicated in the County's Comprehensive Plan to satisfy expected future need for water-dependent facility development.
- b. The Planning Commission must hold public hearings in order to recommend the designation of areas for future water dependent facility development.
- c. Site plan approval for water-dependent activities may be granted in the pre-designated areas when the plans meet the minimum criteria.

41.9. Growth Allocation Process.

1. **Purpose and Intent.** The purpose of the growth allocation process is to establish a method of designating areas within the Critical Area where the County Commissioners may approve a change in the current Critical Area overlay zone for specific sites or development projects to allow for denser or more intensive development. The process provides for the designation of new IDAs and LDAs within the Critical Area either by the conversion of LDA to IDA or the conversion of RCA to LDA or IDA. No more than a total of 1,686 acres may be converted through the growth allocation process. The County Commissioners may award growth allocation resulting from Comprehensive Plan recommendations, small area plan recommendations, general or specific requests from the Town of Leonardtown, or as the result of consideration of specific development projects, site plans, subdivisions, or planned unit developments regulated under this Ordinance. The County Commissioners must approve growth allocation prior to general approval of a specific development project requiring growth allocation on the site, although review may occur simultaneously with the growth allocation application. Growth allocation award is subject to the approval of the Chesapeake Bay Critical Area Commission and may be contingent upon other local, state, and federal approvals.

2. **Location Criteria.** The granting of growth allocation shall be consistent with the Comprehensive Plan and the provisions of the St. Mary's County Critical Area Program set forth in this chapter. When approving a growth allocation, the County Commissioners shall use the following guidelines to determine if the location of the proposed growth allocation classification is consistent with the County Critical Area Program and Comprehensive Plan:

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- 1 a. A new IDA should be located within an existing LDA or adjacent to an existing IDA.
- 2 b. A new IDA should be a minimum of 20 acres unless it is adjacent to an existing IDA or
3 LDA or is a grandfathered commercial, industrial, or institutional use that existed as of
4 the date of local Critical Area program approval. The amount of growth allocation
5 deducted shall be equivalent to the area of the entire parcel or parcels subject to the
6 growth allocation request.
- 7 c. A new LDA should be located adjacent to an existing LDA or IDA.
- 8 d. No more than one-half of the expansion allocated may be located in the Resource
9 Conservation Areas except that if the County is unable to utilize a portion of the growth
10 allocated to the County within or adjacent to existing intensely developed or limited
11 development areas, as demonstrated by the local plan approved by the Critical Area
12 Commission, then that portion of the allocated expansion which cannot be so located may
13 be located in a Resource Conservation Area and the developers shall be required to
14 cluster any development in an area of expansion authorized under this exception.
- 15 (1) If the County demonstrates it is unable to utilize at least half of its growth
16 allocation within the LDA, that portion of the allocated expansion that cannot be
17 located within the LDA may be located in the Resource Conservation Area,
18 provided that development in an area authorized under this paragraph shall be
19 clustered.
- 20 (2) LDA or IDA necessary for the approval of new water-dependent facilities may
21 be located in the RCA.
- 22 (3) A single lot subdivision in an area that does not meet the adjacency requirements
23 for new LDA or IDA may be awarded growth allocation in Resource
24 Conservation Areas provided:
- 25 (a) The parent parcel existed as of December 1, 1985 and is of sufficient
26 size to meet the underlying zone density.
- 27 (b) The new lot is no more than 1.5 acres in size.
- 28 (c) If the acreage remaining in the parent parcel is less than 20 acres, the
29 entire area of the parent parcel is mapped and deducted from the
30 growth allocation allotment in accordance with Section 41.9.6. The
31 acreage remaining in the parent parcel that is less than 20 acres shall be
32 prohibited from future subdivision by a recorded deed restriction and a
33 note on the recorded subdivision plat.
- 34 (d) If the acreage remaining in the parent parcel is 20 acres or more, and
35 the balance of the parent parcel is to remain RCA, only the new lot area
36 shall be deducted from the growth allocation allotment.
- 37 (e) Any future subdivision of a parent parcel with remaining acres less than
38 20 acres is prohibited by a recorded deed restriction and a note on the
39 recorded subdivision plat.
- 40 (f) No more than half of the growth allocation allotment may be used for
41 residential projects.
- 42 e. New Intensely Development Areas should be located where their impact is minimized on
43 the defined land uses of the Resource Conservation Area.
- 44 f. New IDA and LDA areas should be located in order to minimize impacts to Habitat
45 Protection Areas and in a manner that optimizes benefits to water quality.
- 46 3. **Design Criteria.** Growth allocation applications shall comply with the following design criteria:

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- 1 a. All Critical Area Habitat Protection Areas must be identified and protected according to
2 the requirements of this Ordinance. Projects shall conform to all resource protection
3 criteria of Chapter 71.
- 4 b. The design of development projects that request growth allocation awards must optimize
5 benefits to water quality through clustering, forest conservation, and use of best
6 management practices for storm water management and erosion and sediment control.
- 7 c. The designation of development projects that request growth allocation awards must
8 provide adequate protection for historic and archaeological resources listed on state or
9 local surveys or properties on or eligible for the National Register of Historic Places.
- 10 d. When growth allocation is permitted in the RCA, not adjacent to the IDA or LDA, the
11 applicant will be required to cluster the development and provide for resource
12 enhancement in the design of such development.
- 13 e. Projects requesting to convert RCA land to either LDA or IDA shall provide a minimum
14 300-foot buffer from tidal waters and tidal wetlands and tributary streams in the Critical
15 Area. This restriction may be waived for water-dependent facilities that shall maintain a
16 minimum 100-foot buffer for all non-water dependent activities.
- 17 f. Project specific requests for growth allocation must demonstrate that the following design
18 standards will be met or exceeded in order to be approved.
- 19 (1) The development meets all applicable requirements of the St. Mary's County
20 Critical Area Program and this Ordinance.
- 21 (2) The design of the development enhances the water quality and resource and
22 habitat values of the area.
- 23 (3) The development incorporates the comments and recommendations of the
24 County and the Department of Natural Resources in the project design.
- 25 (4) The applicant executes restrictive covenants or conservation easements that
26 guarantee maintenance of the required open space areas.
- 27 (5) The proposed project maximizes the use of a permanent conservation easement
28 and minimizes the use of the County's growth allocation allotment.
- 29 4. ***Basis for Determining Maximum Permitted Density/Intensity.*** Maximum permitted densities or
30 non-residential intensities will be computed based on the total site area less the area occupied by
31 state wetlands.
- 32 a. The maximum residential density that will be permitted using growth allocation awards
33 shall be lesser of:
- 34 (1) The number of dwelling units permitted under all applicable zoning and non-
35 Critical Area overlay districts; or
- 36 (2) The number of individual septic systems approved by the St. Mary's County
37 Health Department under the regulations in effect at the time of application for
38 growth allocation or the number of units approved for connection to proposed
39 community facilities by the Maryland Department of the Environment; or
- 40 (3) The number of units available at the time of application for growth allocation
41 that may connect to an existing public sewerage system as determined by an
42 adequate facilities analysis.
- 43 b. The maximum non-residential intensity that will be permitted using growth allocation
44 awards shall be the lesser of:
- 45 (1) The square footage permitted under all applicable zoning and Critical Area
46 Overlay Districts, or

-
- 1 (2) The square footage approved for an individual septic system by the St. Mary's
2 County Health Department under the regulations in effect at the time of
3 application for growth allocation; or
- 4 (3) The square footage approved for connection to proposed community facilities by
5 the Maryland Department of the Environment; or
- 6 (4) The square footage approved at the time of application for growth allocation
7 through an adequate facility analysis for projects proposing to connect to an
8 existing public sewerage system.

9 **5. Conditions of Approval.**

- 10 a. Growth allocation awards shall remain in effect so long as progress is made toward
11 completion of approved development, such as recordation of a subdivision plat or
12 approval of a site plan. Should such progress not occur within three years of growth
13 allocation award, a hearing may be held by the Planning Commission and Board of
14 County Commissioners to withdraw the award and return the acreage to the County's
15 growth allocation allotment. All procedures for a zoning map amendment shall be
16 followed with the County in the role of applicant for notice and posting.
- 17 b. A growth allocation award may be conditioned to be valid only for a specific project.
18 Any award that is so conditioned must be based on the concept approval of a site plan or
19 subdivision plan (including up to a six-year phasing plan). The growth allocation shall
20 remain valid as long as the project is completed within the allotted time or makes regular
21 and continued progress toward completion. If project approvals lapse, the growth
22 allocation shall be withdrawn at a public hearing to rezone the area to the overlay
23 designation in existence prior to the growth allocation award. An applicant for any
24 project for which approvals lapse, who desires to reinstate the growth allocation on the
25 site, is required to reapply. The project will be reviewed de novo and shall be subject to
26 the standards of the ordinance and regulations in effect at the time of reapplication.
- 27 c. Growth allocation that is not conditioned to be valid only for a specific project may
28 continue in effect even if the project for which the growth allocation was granted is
29 discontinued. Any new or substantially altered project located within an area that has
30 received such a Growth Allocation shall meet or exceed the resource and habitat
31 protection measures, water quality protection measures, and the growth allocation
32 standards of the originally approved project.

33 **6. Computing the Use of the Growth Allocation.** Growth Allocation acreage shall be computed as
34 follows:

- 35 a. Parcels of land that were recorded as of December 1, 1985, and classified as RCA or
36 LDA, where all or part of the parcel is identified by the County as a growth allocation
37 area, shall result in the acreage of the entire parcel not in state wetlands being deducted
38 from the St. Mary's County growth allocation allotment, unless the development
39 envelope concept in (b) is used.
- 40 b. On an RCA parcel proposed for use of growth allocation, a single development envelope
41 may be specified, whereupon the acreage of the development envelope rather than the
42 entire parcel shall be deducted from the County's growth allocation allotment if the
43 development meets the following criteria:
- 44 (1) The development envelope includes individually owned lots, required buffers
45 (including the 100-foot Critical Area Buffer, 25-foot nontidal wetlands buffers,
46 and any zoning buffers), impervious surfaces, roads, utilities, stormwater
47 management measures, on-site sewage disposal measures, any areas subject to
48 human use such as active recreation areas, and any additional acreage needed to
49 meet the development requirements of this Ordinance; and
- 50 (2) Only one development envelope is established per parcel of land; and

-
- 1 (3) If fewer than 20 acres remain outside the development envelope, the residue is
2 contiguous to a 20 acre or larger area of land with an RCA designation, and the
3 land is permanently protected (i.e. by easement).
- 4 c. For growth allocation areas proposed in the RCA, a 300-foot naturally vegetated buffer
5 provided on a growth allocation site is not required to be deducted from the County's
6 allocated growth allocation, even if the buffer does not meet the 20-acre requirement. If
7 the 300-foot buffer area is not deducted, a deed restriction and easement identifying the
8 activities and management practices, if any, allowed in the buffer area must be approved
9 as a condition of growth allocation award by the County and recorded in the land records
10 and on the subdivision plat.
- 11 7. **Procedures.** The following procedures will be used to determine if a site qualifies for the
12 application of growth allocation.
- 13 a. A request for growth allocation may be:
- 14 (1) Generated by the Planning Commission based on the recommendations of the
15 Comprehensive Plan or small area plans developed and approved by the
16 Planning Commission;
- 17 (2) Submitted by the Commissioners of the Town of Leonardtown to the
18 Department of Land Use and Growth Management; or
- 19 (3) Submitted by an owner or duly authorized representative of an owner of a
20 specific site.
- 21 b. All requests shall include a topographic map showing sensitive areas (defined at Chapter
22 71) and buffers within the area proposed for growth allocation. In addition, applications
23 for specific projects shall be accompanied by a site plan, subdivision plan, or planned unit
24 development application prepared according to the requirements of this Ordinance.
25 Applications for specific projects shall also include a fiscal impact analysis of Critical
26 Area development demonstrating that the project will have a net positive fiscal impact
27 upon the County tax base and general operating and capital budgets.
- 28 c. The subdivision history of a parcel must be provided as part of a growth allocation
29 application and shall include copies of all recorded deeds and recorded plats for the
30 parcel and all subdivisions pertaining to the parent parcel since December 1, 1985.
- 31 d. The Critical Area Commission will determine the amount of growth allocation deducted
32 for applications involving a parcel of land in the RCA that was subdivided after
33 December 1, 1985.
- 34 e. The Department of Land Use and Growth Management shall review requests for
35 consistency with the Comprehensive Plan, any applicable small area plans and this
36 Ordinance and will provide technical comments and recommendations to the Planning
37 Commission or the Town of Leonardtown, as appropriate, and the applicant.
- 38 f. Before being considered for a growth allocation award by the County Commissioners, all
39 applicants shall obtain local, state, and federal comments and recommendations and
40 revise the application and preliminary plans to address staff, local, state, and federal
41 agency comments.
- 42 g. A public hearing shall be conducted by the Planning Commission prior to making a
43 recommendation to the County Commissioners to approve, approve with conditions, or
44 deny a growth allocation application.
- 45 h. A public hearing on an application for growth allocation award shall be held by the
46 County Commissioners in the same manner as prescribed for a rezoning request in
47 Chapter 21.

- 1 i. In approving an application for growth allocation, the County Commissioners may
2 establish additional conditions of approval that are consistent with the intent of this
3 Ordinance or the St. Mary's County Comprehensive Plan.
- 4 j. Upon deciding to approve an application, the Board of County Commissioners shall
5 forward a Notice of Intent to award growth allocation for the project to the Chesapeake
6 Bay Critical Area Commission for approval. The notice shall include the application and
7 draft Critical Area Overlay Map amendments. Upon receipt of approval from the Critical
8 Area Commission, final approval of the growth allocation request and adoption of the
9 map amendments by the Board of County Commissioners may proceed.
- 10 k. Upon notice of final approval and adoption of the official mapping, applicants may
11 process site plans and subdivision plats for approval by the Planning Commission or
12 Planning Director as set forth in this Ordinance.

1 **CHAPTER 42 HISTORIC LANDMARKS AND DISTRICTS OVERLAY (H)**

2 Sections:

- 3 42.1 Applicability.
- 4 42.2 Zoning Map Designators.
- 5 42.3 Initiation
- 6 42.4 Criteria for Designation.
- 7 42.5 Procedures for Designation.
- 8 42.6 Historic Resources Conservation Plan.
- 9 42.7 Review of Designation Applications.
- 10 42.8 Approval of Work.
- 11 42.9 Certificate of Appropriateness Review Standards.
- 12 42.10 Certificate of Appropriateness Review Procedures.
- 13 42.11 Amendments to County Design Guidelines or Historic Resources Conservation Plans.
- 14 42.12 Maintenance of Structures.
- 15 42.13 Prevention of Demolition by Neglect.

16 **42.1. Applicability.**

17 A historic landmark or historic district designation may be combined with any base district and applied to
18 historic and prehistoric resources, including sites, districts, structures, objects, buildings, or the remnants
19 thereof. The land use regulations, development regulations, and performance standards applicable to a
20 building, structure or area subject to a historic landmark or district designation shall be as prescribed for the
21 base district with which it is combined, unless modified by design guidelines or a historic resources
22 conservation plan duly adopted by the Historic Preservation Commission and approved by the Board of
23 County Commissioners. When conflicts arise, the criteria and requirements of the design guidelines or
24 historic resources conservation plan shall govern.

25 **42.2. Zoning Map Designators.**

26 Each historic landmark or district shall be shown on the Zoning Maps by adding an “H” designator to the
27 base district designation, followed by the resolution number of the landmark or district. An H overlay
28 designation may only be adopted as an amendment to the Zoning Maps pursuant to the procedures and
29 criteria of Chapter 21 and the criteria of this chapter.

30 **42.3. Initiation**

31 Pursuant to Chapter 21, an application for amendment to the Zoning Maps for a historic landmark or
32 historic district zoning is to be initiated by the property owner or if a district application, by two-thirds of
33 the property owners of the proposed district.

34 **42.4. Criteria for Designation.**

35 In addition to the criteria for amendments to the Zoning Maps, the Board of County Commissioners shall
36 consider the following criteria of historical, cultural, architectural, and design significance in determining
37 whether to approve a historic landmark or district designation:

- 38 1. The area, structure or site seeking designation possesses value as a visible reminder of the cultural
39 heritage of the County, state or nation.
- 40 2. The area, structure, or site seeking designation as a historic landmark or district, is the location of
41 a significant local, state or national event.
- 42 3. The area, structure, or site seeking designation as a historic landmark or district, is identified with
43 a person, group, or event that contributed significantly to the cultural or historical development of
44 the County, state or nation.

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- 1 4. Structures within an area seeking designation as a historic landmark or district exemplify a
2 particular architectural style or way of life important to the County.
 - 3 5. Structures within an area seeking designation as a historic landmark or district are the best
4 remaining examples of an architectural style in a neighborhood.
 - 5 6. The area seeking designation as a historic landmark or district, or its structures, is identified as the
6 work of a person or group whose work has influenced the heritage of the County, the state, or the
7 nation.
 - 8 7. The area seeking designation as a historic landmark or district or its structures, embodies elements
9 of outstanding attention to architectural or landscape design, detail, materials, or craftsmanship.
 - 10 8. The area seeking designation as a historic landmark or district is related to a designated historic or
11 landmark building or district in such a way that its preservation is essential to the integrity of the
12 building or district.
 - 13 9. Specific evidence exists that unique archaeological resources are present.

14 **42.5. Procedures for Designation.**

- 15 1. **General.** An application for an amendment to the Zoning Maps for a historic landmark or district
16 designation shall be processed pursuant to the procedures set forth above for amendment of the
17 Zoning Maps, and the additional requirements of this chapter.
- 18 2. **Application Contents.** An application for historic landmark or district designation shall include:
 - 19 a. A map and description of the proposed historic landmark or district, which shall delineate
20 boundaries for landmarks or districts.
 - 21 b. Photographs of the landmark or district proposed for designation.
 - 22 c. An inventory of the age, setting, character and architectural, cultural or historical
23 significance of the landmark or sites within the district proposed for designation.
 - 24 d. The proposed objectives to be achieved by the designation of the landmark or district.
 - 25 e. If the application is for district designation, consent in writing of two-thirds majority of
26 the property owners in the district. (All affected property owners will be notified by
27 certified mail.)

28 **42.6. Historic Resources Conservation Plan.**

29 An application for districts with 10 or more resources and/or properties shall include a Historic Resources
30 Conservation Plan. The plan shall be prepared by the applicant and shall contain architectural and design
31 guidelines specific to the proposed district and consistent with the Secretary of Interior's Standards for
32 Rehabilitation. These standards shall govern renovation, new construction, infill, and maintenance work
33 and shall specify such characteristics as materials, colors, signage, landscaping, and other design-related
34 considerations that will be permitted, encouraged, limited, or excluded from the district. The Historic
35 Resources Conservation Plan shall be incorporated in the adopting resolution for district designation and,
36 hence, be subject to the review and approval of the Board of County Commissioners.

37 **42.7. Review of Designation Applications.**

38 Applications for historic landmark and district designation shall be referred to the Historic Preservation
39 Commission (the HPC) for review prior to Planning Commission consideration. The HPC may call upon
40 the County's historic sites surveyor/planner or other staff to analyze and report on the proposed
41 designation. The resulting report may recommend modification of proposed boundaries of historic
42 landmarks or districts, as well as make recommendations for the identification and designation of additional
43 landmarks or districts to be included. The HPC shall make its recommendations to the Planning
44 Commission within 30 days of receiving the report. If no report is requested by the HPC, the HPC shall
45 make its recommendations to the Planning Commission within 30 days of receiving the application.

1 **42.8. Approval of Work.**

- 2 1. **Certificates of Appropriateness.** All development, exterior alteration, restoration, rehabilitation,
3 or relocation of any structure on or within a designated historic landmark or district requires a
4 certificate of appropriateness from the Historic Preservation Commission. Routine maintenance
5 and the repair of any exterior architectural feature that does not involve a change in design,
6 material, or outward appearance is exempt from this requirement. The Historic Preservation
7 Commission shall notify the Planning Director of its approval, modification, or rejection of all
8 applications and plans submitted to it for review.
- 9 2. **Historic Area Work Permit.** If such work is approved and certified as appropriate by the HPC, a
10 Historic Area Work Permit shall be issued by the Planning Director pursuant to the provisions of
11 Chapter 22, Administrative Decisions. Work shall not commence on any such project until a
12 permit has been issued.
- 13 3. **Design Guidelines.**
- 14 a. Within 12 months of the adoption of this Ordinance, the Historic Preservation
15 Commission shall adopt architectural and design guidelines subject to the review and
16 approval of the Board of County Commissioners. These guidelines shall address the
17 County's historic architecture and landscape and be general in nature. These guidelines
18 shall govern renovation, new construction, infill, and maintenance work and shall specify
19 such characteristics as materials, colors, signage, landscaping, and other design-related
20 considerations that will be permitted, encouraged, limited, or excluded from the historic
21 landmark or districts. The architectural and design guidelines shall be consistent with the
22 Secretary of Interior's Standards for Rehabilitation.
- 23 b. All work within designated historic landmark and districts shall conform to the guidelines
24 adopted pursuant to the paragraph above.

25 **42.9. Certificate of Appropriateness Review Standards.**

- 26 1. **Certificate of Appropriateness.** The Historic Preservation Commission shall issue a certificate of
27 appropriateness upon finding that:
- 28 a. The proposal is necessary in order to remedy unsafe conditions or health hazards; or
- 29 b. The proposal is necessary so the owner of the subject property will not be deprived of
30 reasonable use of the property or suffer unnecessary hardship; and
- 31 c. The proposal will not substantially alter the exterior features of the historic resource; and
- 32 d. The proposal is compatible in character and nature with the historical, archaeological,
33 architectural, or cultural features of the historic resource(s), as defined in the approved
34 County design guidelines or approved Historic Resources Conservation Plan; and
- 35 e. The proposal will enhance or aid in the protection, preservation, and public or private use
36 of the historic resource(s) in a manner compatible with its historical, archaeological,
37 architectural, or cultural value as defined in the adopted County design guidelines or
38 approved Historic Resources Conservation Plan; and
- 39 f. The general public welfare is served by issuance of the permit.
- 40 2. **Other Review Considerations**
- 41 a. The review process for a certificate of appropriateness requires submission and review of
42 a site plan. The extent of the site plan is determined by the Planning Director pursuant to
43 the provisions of Chapter 60, Site Plan Review.
- 44 b. The applicant for a certificate of appropriateness or historic area work permit shall have
45 the responsibility of providing sufficient information to support the application. If the
46 property is subject to an easement held by another historic preservation organization, the
47 applicant shall submit proof of approval of exterior architectural changes within the
48 easement area from the organization holding the easement.

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- 1 c. Authorization by the HPC to issue a certificate of appropriateness or historic area work
2 permit shall not be construed to eliminate the need to obtain any other permit required by
3 state or local law, ordinance, or regulation, in conformance with all requirements
4 applicable to such other permit. No other permit shall be issued that would authorize
5 work to be performed in violation of any conditions imposed by a certificate of
6 appropriateness or historic area work permit, or in the absence of such certificate or
7 permit.
- 8 d. The HPC shall not require structures of little historical or design significance within a
9 historic district to be preserved unless demolition would seriously impair the character of
10 the historic district.

11 **42.10. Certificate of Appropriateness Review Procedures.**

- 12 1. **Review Period.** The Historic Preservation Commission shall review applications for certificates of
13 appropriateness and publish its findings, conclusions, and decision within 45 days after the filing
14 of an application, except as provided in this subsection below.
- 15 2. **Effect of Denial.** If, after reviewing a case, the HPC finds that denial of the certificate of
16 appropriateness would preclude all reasonable use of the property, or would impose unnecessary
17 hardship on the owner, there shall be a period of 120 days after such finding to allow for the
18 development of an economically feasible plan for the preservation of the structure. If, no plan has
19 been produced at the end of such period, the HPC must find that the proposal is the minimum
20 relaxation of the approved County design guidelines or Historic Resource Conservation Plan
21 necessary for reasonable use and enjoyment of the property consistent with Section 42.9.1, (c)-(f).
- 22 3. **Failure to Act.** Failure of the Commission to act on an application within the stated time period
23 shall be considered as authorization by the Commission to issue the permit. The time period for
24 Commission action may be extended with the written consent of the applicant.

25 **42.11. Amendments to County Design Guidelines or Historic Resources Conservation Plans.**

26 Substantive amendments to a Historic Resources Conservation Plan shall require the approval of the Board
27 of County Commissioners, while minor amendments that are consistent with the intent of the original
28 approval may be approved by the Planning Director.

29 **42.12. Maintenance of Structures.**

- 30 1. **General.** All property owners in a designated historic district and property owners of a designated
31 historic landmark shall have the obligation of maintaining structures in good repair, and no owner
32 shall permit the property to fall into a state of disrepair.
- 33 2. **Standards of Review.** For this chapter, the standards of review for good repair and disrepair are as
34 follows:
- 35 a. **Good Repair.** This is the level of maintenance that ensures the continued availability of
36 the structure and premises for a lawfully permitted use, and prevents deterioration,
37 dilapidation, and decay of the exterior portions of the structure and premises.
- 38 b. **Disrepair.** This includes but is not limited to deterioration of exterior walls, plaster,
39 mortar or vertical or horizontal supports; deterioration of roofs and exterior chimneys;
40 ineffective waterproofing (including broken windows or doors) or the deterioration of any
41 other exterior feature that would create a hazardous or unsafe condition.

42 **42.13. Prevention of Demolition by Neglect.**

- 43 1. **Notice.**
- 44 a. If a historic landmark or district property is deemed to be in a state of disrepair, the
45 Historic Preservation Commission shall instruct the Planning Director to notify, in
46 writing, the owner(s) of record of the designated historic landmark any person having any
47 right, title, or interest in the property; and the occupant or other person responsible for the
48 maintenance of the landmark or property, of the deterioration. The notice shall specify

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- 1 the minimum items of repair or maintenance necessary to bring the landmark or property
2 into good repair.
- 3 b. Such notice shall be sent by certified mail, return receipt requested, addressed to said
4 owner or other responsible person at the last known address or the address shown on the
5 real property tax records. Such notice, when so addressed and deposited with the Postal
6 Service with proper postage prepaid, shall be deemed complete and sufficient. In the
7 event that such notice is returned by the postal authorities, the Planning Director shall
8 cause a copy of the notice to be personally served by an authorized representative upon
9 the owner(s) of record of the property; any person having any right, title, or interest in the
10 property; and the occupant or other person responsible for the maintenance of the
11 property or upon any agent of the owner(s) thereof. In the event that personal service
12 cannot be accomplished, as aforesaid, after reasonable efforts, notice shall be
13 accomplished by posting a public notice on the property.
- 14 c. The notice shall require that corrective action shall commence within 30 days or less of
15 receipt or posting of said notice, unless an extension is granted by the Commission, and
16 shall be completed within a reasonable period of time. The notice shall state that the
17 owner(s) of record of the subject property, or any person having any right, title, or interest
18 therein, may, within 10 days, request a hearing on the necessity of preventing demolition
19 by neglect. If no request for hearing is received within this time period, the notice shall
20 become final.
- 21 2. **Public Hearing.**
- 22 a. In the event a public hearing is requested, it shall be held by the HPC upon 30 days
23 written notice mailed to the owner(s) of record; all persons having any right, title, or
24 interest in the subject property; the occupant or other person responsible for the
25 maintenance of the property; and all citizens and organizations the Commission
26 reasonably finds may have an interest in the proceedings.
- 27 b. After the public hearing on the prevention of demolition by neglect, if the Commission
28 still finds that demolition should be prevented, it shall instruct the Planning Director to
29 issue a final notice to be mailed to the owner(s) of record; all persons having any right,
30 title, or interest in the subject property; and the occupant or other person responsible for
31 the maintenance of the property, stating the items of repair and maintenance necessary to
32 correct or prevent further deterioration.
- 33 c. The property owner(s) or other responsible person shall institute corrective action to
34 comply with the final notice within 30 days of receipt of the revised notice, unless an
35 extension is granted by the HPC.
- 36 3. **Economic Hardship.** When a public hearing is requested, the HPC may consider economic
37 hardship only if the property owner(s) or owners of a historic landmark submit the following
38 minimum information to the HPC, at least 20 days prior to the public hearing.
- 39 a. *For all landmarks and property:*
- 40 (1) The amount paid for the landmark or the property the date of purchase and the
41 party from whom purchased, including a description of the relationship, if any,
42 between the owner and the person from whom the landmark or property was
43 purchased;
- 44 (2) The assessed value of the landmark or the land and improvements thereon
45 according to the two most recent assessments;
- 46 (3) Real estate or other taxes paid for the previous two years;
- 47 (4) Annual debt service, if any, for the previous two years;

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- 1 (5) All appraisals obtained within the previous two years by the property owner(s)
2 in connection with the property owner's purchase, financing, or ownership of the
3 landmark or the property;
- 4 (6) Any listing of the landmark or the property for sale or rent, price asked, and
5 offers received; if any; and
- 6 (7) Any consideration by the owner as to profitable adaptive uses for the landmark
7 or the property, and
- 8 b. *For income-producing landmarks or property:*
- 9 (1) The items in paragraph a above; and
- 10 (2) Annual gross income from the landmark or the property for the previous two
11 years;
- 12 (3) Itemized operating and maintenance expenses from the landmark or the property
13 for the previous two years; and
- 14 (4) Annual cash flow from the landmark or the property, for the previous two years.
- 15 4. **Additional Information.** The HPC may require that the landmark or property owner(s) furnish
16 such additional information as the Commission believes is relevant to its determination of
17 economic hardship. In the event that any of the required information is not reasonably available to
18 the landmark or property owner(s) and cannot be obtained by the landmark or property owner(s),
19 the landmark or property owner(s) shall file with the other required information, a statement of the
20 information that cannot be obtained and shall describe the reasons why such information cannot be
21 obtained.
- 22 5. **Finding of Hardship.** In the event that the HPC finds that, notwithstanding the necessity for
23 preventing demolition by neglect, the action provided for by Section 3 above would impose a
24 substantial unnecessary hardship on the owner(s) of record of the subject property, the
25 Commission shall seek alternative methods for preserving the historic resource. If none are
26 confirmed within a reasonable time, the Planning Director shall not issue final notice per Section 2
27 above. However, the Commission shall be permitted to make measured drawings and
28 photographs, or on-site documentation by some other method within a mutually agreeable period
29 of time.
- 30 6. **Action Upon Non-compliance with Final Notice**
- 31 a. Upon the failure, neglect, or refusal of the property owner or other responsible person,
32 duly notified, to take corrective action specified in the final notice, the Planning Director
33 is hereby authorized and empowered to institute, perform, and complete the necessary
34 remedial work to prevent further demolition by neglect, and to defray the costs thereof as
35 hereinafter provided.
- 36 b. When the County has completed the necessary remedial work to prevent further
37 demolition by neglect, or has paid for its completion, the actual cost thereof, if not paid
38 by the property owner(s) or other responsible person prior thereto, shall be charged to the
39 owner(s) of record of such property on the next regular tax bill forwarded to such
40 owner(s), and said charge shall be due and payable by said owner(s) at the time of
41 payment of tax bill.
- 42 c. When the full amount due the County is not paid by the landlord or the property owner(s)
43 when due, the Planning Director shall cause to be recorded in the Office of the Treasurer
44 of St. Mary's County a sworn statement showing the cost and expense incurred for the
45 work, the date(s) upon which the work was done, and the location of the property on
46 which the work was done. Such notice shall result in a tax lien being placed against the
47 affected property, which shall be collected in the same manner as the county taxes on
48 such real property.

- 1 7. **Demolition.** In the event that any historic structure (50 years or older) is scheduled for
2 demolition, the Historic Preservation Commission may require that the demolition be delayed for
3 a reasonable time, not to exceed 90 days, so that the structure may be documented.

1 **CHAPTER 43 AIR INSTALLATIONS COMPATIBLE USE ZONE (AICUZ) AND AIRPORT**
2 **ENVIRONS (AE) OVERLAY**

3 Sections:

- 4 43.1 Applicability and Zoning Map Designator.
5 43.2 Noise Level Contours.
6 43.3 Land Use and Development Regulations Generally.
7 43.4 Site Development Standards.
8 43.5 Airport Easements, Restrictions, and Covenants.

9 **43.1. Applicability and Zoning Map Designator.**

10 1. **Applicability.** All existing, new, or improved public airports, airfields, or heliports shall be located
11 within an AICUZ or AE Overlay Zone.

- 12 a. An AICUZ Overlay applies to certain lands immediately surrounding the Patuxent River
13 Naval Air Station and has been delineated on the Official Zoning Maps in accordance
14 with all state and federal aviation requirements.
15 b. An AE Overlay applies to certain lands surrounding the St. Mary's County Regional
16 Airport and as been delineated on the Official Zoning Maps in accordance with the
17 County's airport master plan.
18 c. If a portion of a lot, parcel, or tract lies within one of the AICUZ or AE subdistrict(s), the
19 restrictions upon uses and structures apply only to that portion of the lot, parcel, or tract
20 located within the AICUZ or AE subdistrict(s).

21 2. Zoning Map Sub-Districts and Purpose.

22 a. Within the AICUZ the following sub-districts shall be designated on the Official Zoning
23 Maps:

- 24 (1) Clear Zone (CZ). Within the CZ, aircraft can be expected to operate at an
25 altitude close to ground level, and therefore this area is the area of greatest
26 aircraft accident potential and threat to human life and real property
27 improvements.
28 (2) Accident Potential Zone 1 (APZ 1). This is the glide zone, and area in which
29 aircraft are transitioning to commit to touchdown or takeoff with high power
30 settings in a descending or climbing attitude. It is an area of high concentration
31 of air traffic and noise and represents the second greatest accident and risk
32 potential.
33 (3) Accident Potential Zone 2 (APZ 2). This is the rendezvous dispersion zone, the
34 area over which aircraft are normally in a vulnerable flight attitude with variable
35 power settings on landing and high power settings on takeoff and represents the
36 least potential for aircraft accidents and risks within the AICUZ.

37 b. Within the AE overlay the following sub-districts are designated on the Official Zoning
38 Maps but note that the vertical aspects of the sub-districts are described herein:

- 39 (1) *Approach Surface (AS)*. The inner edge of this surface coincides with the width
40 of the primary surface and is 500 feet wide. The approach surface expands
41 outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000
42 feet from the primary surface, centered on the extended runway centerline. This
43 surface extends upward at a slope of 34 feet horizontally for each foot vertically
44 (34:1) beginning at the end of and at the same elevation as the primary surface.

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- 1 (2) *Conical Surface (CS)*. This surface commences at the periphery of the horizontal
2 surface at a slope of twenty to one (20:1) and extends outward a horizontal
3 distance of 4,000 feet.
- 4 (3) *Heliport Imaginary Surfaces*. Heliport imaginary surfaces consist of the HPS,
5 the HAS and the HTS. The heliport primary surface (HPS) underlies a surface
6 that coincides with the size and shape of the designated takeoff and landing area
7 of a heliport. This surface is a horizontal plane at the elevation of the
8 established heliport elevation. The heliport approach surface (HAS) begins at
9 each end of the Heliport Primary Surface with the same width as the primary
10 surface, and extends outward and upward for a horizontal distance of 4,000 feet
11 where its width is 500 feet. The slope of the approach surface is 8:1 for civil
12 and 10:1 for military heliports. Heliport transitional surfaces (HTS) extend
13 outward from the lateral boundaries of the heliport primary surface and from the
14 approach surfaces at a slope of 2 feet horizontal to 1 foot vertical for a distance
15 of 250 feet measured horizontally from the centerline of the primary and
16 approach surfaces.
- 17 (4) *Horizontal Surface (HS)*. This is as a horizontal plane one hundred and fifty
18 (150) feet above the established airport elevation, this surface is defined by arcs
19 of ten thousand (10,000) feet radii from the center of each end of the Primary
20 Surface of the runway, connected by tangent lines. The Horizontal Surface does
21 not include the Approach and Transitional Surfaces.
- 22 (5) *Primary Surface (PS)*. This sub-district is a ground surface, 500 feet in width,
23 centered lengthwise on the runway and ending 200 feet beyond the end of the
24 runway.
- 25 (6) *Transitional Surface (TS)*. This sub-district is established as a surface extending
26 outward at 90-degree angles to the runway centerline extended at a slope of
27 seven feet horizontally for each one foot vertically (7:1) from the sides of the
28 primary and approach surfaces to where they intersect the horizontal and conical
29 surfaces. In addition to the Site Development Standards contained herein, there
30 are established height limits sloping upward and outward seven feet horizontally
31 for each foot vertically (7:1) beginning at the sides of the same elevation as the
32 approach surfaces, and extending to where they intersect the conical surface.
- 33 (7) *Runway Protection Zone (RPZ)*. This sub-district is a trapezoid shaped area
34 located off the end of each runway (part of Area 1). The RPZ expands outward
35 uniformly to a width of 700 feet at a horizontal distance of 1,000 feet from the
36 primary surface, centered on the extended runway centerline. This is an area
37 where aircraft are operating at a low altitude during approach or takeoff.

38 **43.2. Noise Level Contours.**

39 Noise from concentrated numbers of low-flying aircraft is expected to produce discomfort, annoyance or a
40 potentially unhealthy environment. Noise level contour lines based on anticipated day-night average sound
41 level (Ldn) in decibels (db) may be shown on the Official Zoning Maps, and additional sound deadening
42 may be required, as shown on Figure 43.2.A, in new construction or renovation to assure adequate
43 construction requirements for sound level reduction to produce an acceptable interior environment. New
44 development may be prohibited where indicated in Figure 43.2.A.
45

1 **FIGURE 43.2.A MINIMUM SOUND LEVEL REDUCTION REQUIREMENTS FOR**
 2 **STRUCTURES***

ACTIVITIES AND/OR LAND USES	Ldn 75+(SLR 35dB)	Ldn 70-75 (SLR 30 dB)	Ldn 65-70 (SLR 25 dB)
Residential (1)	Not Allowed	Not Allowed	Permitted with SLR 25
Residential (2), Educational and Institutional (3)	Not Allowed	Permitted with SLR 30	Permitted with SLR 25
Auditoriums, Concert Halls	Not Allowed	Not Allowed	Permitted with SLR 35
Outdoor Amphitheaters, Music Shells	Not Allowed	Not Allowed	Not Allowed
Offices: Personal, Business and Professional Services; Commercial Retail, Movie, Theaters, Restaurants(4)	Permitted with SLR 30 except movie theaters and restaurants	Permitted with SLR 25	Permitted
Transient Lodging – Hotels, Motels	Not Allowed	Permitted with SLR 30	Permitted with SLR 25
Sports Arenas, Outdoor Spectator Sports	Not Allowed	Permitted with SLR 30	Permitted
Playgrounds, Neighborhood Park	Not Allowed	Not Allowed	Permitted
Golf Courses, Driving Ranges, Water Recreation, Cemeteries (5)	Permitted	Permitted	Permitted
Commercial – Wholesale and Selected Retail, Industrial/Manufacturing, Transportation, Communications and Utilities (6)	Permitted	Permitted	Permitted
Animal-related Services (7)	Not Allowed	Permitted	Permitted
Agricultural (8)	Permitted	Permitted	Permitted
* This table only relates to Sound Level Reduction for uses otherwise permitted. ** See accompanying notes for expanded list of activities and land uses.			

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1 **NOTES FROM TABLE**

- 2 (1) Urban Renewal Administration, Housing and Home Finance Agency, and
3 Bureau of Public Roads, Standard Land Use Coding Manual: A Standard System
4 for Identifying and Coding Land Use Activities. U.S. Department of commerce,
5 1965.
- 6 (2) Triplex, Fourplex, apartment houses, multi-family dwellings, rooming houses,
7 boarding houses, or nursing homes, sorority and fraternity houses, dormitories,
8 boarding schools, convalescent homes.
- 9 (3) School classrooms, libraries, churches, and hospitals.
- 10 (4) Professional and financial offices, banks, savings and loan association, mortgage
11 bankers, insurance offices, real estate office, architects, engineers, attorneys-at-
12 law, decorators, medical and dental clinics and labs, funeral homes and
13 mortuaries, retail stores, clothing stores, department stores, food and dairy
14 markets, cafes, restaurants (enclosed and drive-in), cafeterias, barber shops,
15 beauty shops, new and used car sales, country clubs.
- 16 (5) Swimming pools, shooting ranges, miniature golf courses.
- 17 (6) Automobile salvage and wrecking yards, industrial metal and waste salvage
18 yards, manufacturing facilities, gasoline service stations, ambulance services,
19 automobile repair garages, public storage garages, taxi dispatch offices,
20 automobile washing stations, lumber yards, warehousing, motor freight
21 terminals, railway passenger and freight stations, airport services.
- 22 (7) Animal grooming services, dog kennels, veterinarians and veterinarian hospitals.
- 23 (8) Farms, orchards, nurseries, greenhouses.

24 **43.3. Land Use and Development Regulations Generally.**

25 The restrictions upon use of land and structures listed in Figures 43.3.A and 43.3.B, apply to lands within
26 the AICUZ and the AE overlay respectively, and are in addition to any other applicable regulations. Where
27 the requirements conflict, the more stringent requirement shall apply.

- 28 1. **Permitted Uses.** Uses identified in the AICUZ or AE districts that are shown in Figure 43.3.A and
29 43.3.B are subject to the following:
- 30 a. *Clearly Compatible (A):* Exposure to accident potential is such that the activities
31 associated with the land use may be carried out with essentially no interference and no
32 substantial loss of life and property.
- 33 b. *Normally Compatible (B):* Exposure to accident potential is great enough to be of some
34 concern, but density of people and structures, when properly planned and approved, will
35 allow the accident potential environment to be acceptable. Site plan approval is required.
- 36 c. *Normally Incompatible (C):* The exposure to accident potential is significantly more
37 severe so that more restrictive density and land use restrictions are necessary for safety of
38 life and property.
- 39 d. *Clearly Incompatible (-):* The exposure to accident potential at the site is so severe, due
40 to potential loss of life and property, that performance of the land use activity or
41 development is not permitted. Uses not specified in Figures 43.3.A and 43.3.B shall be
42 deemed clearly incompatible.
- 43 e. Improvements and land uses that obstruct or interfere with the safe operation of aircraft
44 or cause a congregation of persons shall not be permitted in the Clear Zone (CZ).
- 45 2. **AE Land Use Compatibility Guidelines.** It is always best to take actions that will prevent
46 incompatible land use, as opposed to taking action to correct such activities after the fact. The
47 first step in implementing compatible land use for an airport is to adopt guidelines as part of a
48 comprehensive plan and the airport's land use plan and map. Areas recommended for control as

1 part of the Land Use Compatibility Guidelines in the AE District are defined in the following
2 sections. Figure 43.3.B identifies land uses which are generally compatible or incompatible
3 within airport safety zones and Part 77 surfaces. There are specific types of development that are
4 usually compatible within airport safety zones. In general, these include agriculture, commercial,
5 and industrial uses. Other types of development, such as noise sensitive activities and places of
6 public assembly are typically considered to be incompatible within airport safety zones. The Land
7 Use Compatibility Guidelines are divided into the following four areas, which are graphically
8 shown in Figure 44.3.C.

9 a. *Area 1*, as identified on the Official Zoning Maps, consists of the land beneath the
10 Primary Surface for each runway at the airport and the land beneath the Runway
11 Protection Zone (RPZ) which is further described in Section 43.1.2. The dimensions of
12 this zone vary based on the length and width of the runway and the existing or planned
13 approach. The following are permitted uses in Area 1, subject to the height requirements
14 established by FAR Part 77:

- 15 (1) Runway and taxiway systems (widening, extending etc.).
- 16 (2) Frangible navigational aids (localizer, approach lighting etc.).

17 b. *Area 2*, as identified on the Official Zoning Maps, consists of the land beneath the
18 Approach Surface, as defined in Section 43.1.2 for each runway and extended 3,000 feet
19 from the edge of the Primary Surface, as defined in Section 43.1.2, except for land within
20 Area 1. Area 2 expands outward uniformly from the Primary Surface to a width of 1,400
21 feet and includes sufficient area for installation of an approach and runway indicator
22 lighting systems. The following are permitted uses in Area 2 and are subject to the height
23 requirement established in FAR Part 77.

- 24 (1) Agriculture.
- 25 (2) Passive Recreation (non-spectator).
- 26 (3) Cemeteries.
- 27 (4) Automobile Parking.
- 28 (5) Transportation Uses such as Roads, Railway and Street Rights-of-Way.
- 29 (6) Utilities (above and below ground).

30 c. *Area 3*, as identified on the Official Zoning Maps, consists of the land beneath the
31 Transitional Surface and the land beneath the Approach Surface, as defined in Section
32 43.1.2 and located within 700 feet of the runway or runway centerline extended. The
33 following are permitted uses in Area 3, subject to the height requirements established in
34 FAR Part 77:

- 35 (1) Agriculture, Forestry.
- 36 (2) Recreation (non-spectator)
- 37 (3) Resource extraction – Mining, General Manufacturing.
- 38 (4) Transportation Uses such as Rods, Railway and Street Right-of-Way.
- 39 (5) Automobile Parking.
- 40 (6) Utilities.
- 41 (7) Wholesale and Retail Trade such as building materials, hardware, and general
42 merchandise.
- 43 (8) Services, excluding hospitals, nursing homes, educational, other medical
44 facilities, and other noise sensitive uses.

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(9) Airport and aircraft related services and fixed base operations (Tee-hangars, etc.).

It is important to note that these land use recommendations for the approach and transitional surfaces are not based specifically on any established FAA criteria.

- d. *Area 4*, as identified on the Official Zoning Maps, consists of the land beneath the AE sub-districts not contained within Areas 1, 2 or 3, and is bound by the outer limit of the Conical Surface. All land uses are permitted in Area 4, subject to the height requirements established in FAR Part 77.

1 **FIGURE 43.3.A: LAND USE COMPATIBILITY IN AIRCRAFT ACCIDENT POTENTIAL ZONES**
2 **LAND USE CATEGORY** **COMPATIBILITY¹**

RESIDENTIAL	CLEAR ZONE	APZ-1	APZ-2
Single-family	D	D	C ²
2 – 4 family	D	D	D
Multi-family dwellings	D	D	D
Group quarters	D	D	D
Residential hotels, transient lodging (motels, etc.)	D	D	D
Mobile home parks or courts	D	D	D
Other residential	D	D	C ²
INDUSTRIAL/MANUFACTURING			
Food and kindred products	D	C	B
Textile mill products	D	C	B
Apparel	D	D	C
Lumber and wood products	D	B	A
Furniture and fixtures	D	B	A
Paper and allied products	D	B	A
Printing, publishing	D	B	A
Chemicals and allied products	D	D	C
Petroleum refining and related industries	D	D	D
Rubber and misc. plastic products	D	C	C
Stone, clay, and glass products	D	B	A
Primary metal products	D	B	A
Fabricated metal products	D	B	A
Professional, scientific and controlling instruction	D	B	C
Miscellaneous manufacturing	D	D	B
TRANSPORTATION, COMMUNICATIONS AND UTILITIES			
Railroad, rapid rail transit (on-grade)	C ⁵	A ⁴	A
Highway and street right-of-way	C ⁵	A	A
Automobile parking (long-term)	C ⁵	B	A
Communication	C ⁵	A ⁴	A
Utilities	C ⁵	A ⁴	A
Other transportation, communication, and utilities	C ⁵	A ⁴	A
COMMERCIAL AND RETAIL TRADE			
Wholesale trade	D	B	A
Building material-retail	D	B	A
General merchandise-retail	D	C	B
Food-retail	D	C	B
Automotive, marine, aviation-retail	D	B	A
Apparel and accessories-retail	D	C	B
Furniture, home furnishing-retail	D	C	B
Eating and drinking establishments	D	D	C
Other retail trade	D	C	A

1 **FIGURE 43.3.A: LAND USE COMPATIBILITY IN AIRCRAFT ACCIDENT POTENTIAL ZONES**

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LAND USE CATEGORY	COMPATIBILITY ¹		
PERSONAL AND BUSINESS SERVICES ⁶	CLEAR ZONE	APZ-1	APZ-2
Finance, insurance and real estate	D	D	B
Personal services	D	D	B
Repair services	D	B	A
Business services	D	D	B
Professional services	D	C	B
Contract construction services	D	B	A
Indoor recreation services	D	D	B
Other services	D	C	B
PUBLIC AND QUASI-PUBLIC SERVICES			
Government services	D	B	B ⁵
Educational services	D	D	D
Cultural activities	D	D	C
Medical and other health services	D	D	D
Cemeteries	D	B ⁷	A ⁷
Non-profit organization, including churches	D	D	C
Other public and quasi-public services	D	D	B
OUTDOOR RECREATION			
Playgrounds, neighborhood parks	D	D	B
Community and regional parks	D	B ⁸	A ⁸
Nature exhibits	D	B	A
Spectator sports, including arenas	D	D	D
Golf courses, riding stables	D	A	A
Water-based recreational areas	D	B	A
Resort and group camps	D	D	D
Entertainment assembly	D	B	D
Other outdoor recreation	D	B ⁸	B
RESOURCE PRODUCTION, EXTRACTION AND OPEN LAND			
Agriculture (except livestock)	B	A	A
Livestock farming, animal breeding	D	A	A
Forestry activities	D ⁵	A	A
Fishing activities and related services	D	A	A
Mining activities	D	B ³	A
Permanent open space	B	A	A
Water areas	B	A	A

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1 **KEY TO FIGURE 43.3.A**
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- A: CLEARLY COMPATIBLE** Exposure to accident potential is such that the activities associated with the land use may be carried out with essentially no interference and no substantial loss of life and property.
- B: NORMALLY COMPATIBLE** Exposure to accident potential is great enough to be of some concern, but density of people and structures, when property planned, will allow the accident potential environment to be acceptable.
- C: NORMALLY INCOMPATIBLE** The exposure to noise or accident potential is significantly more severe so that unusual density restrictions are necessary for safety of life and property.
- D: CLEARLY INCOMPATIBLE** The exposure to accident potential at the site is so severe, due to potential loss of life and property, that performance of land use activities is not advisable.

3 **FOOTNOTES TO FIGURE 43.3.A**

- 4 1. Within each land use category, uses exist where further definition may be needed due to the
5 variation of densities in people and structures.
- 6 2. Residences are not allowed in the APZ-2 Zone after October 2, 2007 unless in conformance with
7 paragraphs "a", "b", "c" and "d" below:
- 8 a. Residences existing as of October 2, 2007 are not considered non-conforming and
9 may be altered or replaced in conformance with the existing development standards
10 and paragraph "d" below.
- 11 b. Vacant recorded lots within a residential subdivision may be used for residential
12 purposes in accordance with existing development standards and paragraph "d"
13 below.
- 14 c. All pending residential subdivisions filed with the County prior to April 10, 2007
15 may proceed through the development process.
- 16 d. Residential construction after October 2, 2007 will comply with existing
17 development standards and applicable sound reduction measures found in Figure
18 43.2.A.
- 19 e. Where properties are partially within the APZ-2 Overlay, and within a base zone in
20 which residences are permitted, residential density may be transferred from the
21 portion within the Overlay to the portion outside of the Overlay at a density of two
22 (2) dwellings units per acre.
- 23 3. Factors to be considered: Labor intensity, structural coverage, explosive characteristics, and air
24 pollution.
- 25 4. No passenger terminals and no major above-ground transmission lines in clear zones.
- 26 5. The placing of structures, buildings, or above-ground utility lines in the clear zone is subject to
27 severe restrictions. In a majority of the clear zones, these items are prohibited.
- 28 6. Low-intensity office uses only. Meeting places, auditoriums, etc. not recommended.
- 29 7. Excludes chapels.
- 30 8. Facilities must be low intensity.
- 31 9. Clubhouse not recommended.
- 32 10. Concentrated rings with large classes not recommended.
33

1 **FIGURE 43.3.B: COMPATIBLE LAND USE RECOMMENDATIONS WITHIN THE AE SUB-**
2 **DISTRICTS**

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LAND USE CATEGORY	COMPATIBILITY¹		
	AREA 1/2*	AREA 3	AREA 4
RESIDENTIAL			
Residential-other than mobile home parks, transient lodgings	D/D	B	B
Mobile home parks / mobile homes	D/D	B	B
Transient lodgings, hotels, motels	D/D	B	B
PUBLIC USE AND TRANSPORTATION			
Places of public assembly (nursing homes, schools, hospitals, churches, auditoriums)	D/D	B	B
Government Buildings	D/D	B	B
Transportation (parking, highways, bus and rail terminals, aviation terminals)	D/B	B	A
COMMERCIAL AND RETAIL TRADE			
Offices-business and professional	D/D	B	B
Wholesale/Retail-materials, food, hardware and farm equipment	D/D	B	B
Retail trade-general, animal-related services (grooming etc)	D/D	B	B
Utilities	D/D	B	A
Communications (telephone, exchange stations, relay towers, transmission stations)	D/D	C	A
INDUSTRIAL AND MANUFACTURING			
Manufacturing - general	D/D	B	B
Agricultural (except livestock)	D/B	B	A
Livestock farming and breeding	D/B	B	A
Resource extraction (mining)	D/D	D	A
Forestry	D/D	B	A
RECREATIONAL			
Outdoor sports arenas	D/D	D	B
Nature exhibits, zoos	D/D	D	B
Amusement parks, resorts, camps	D/D	D	B
Source: Pennsylvania Land Use Compatibility Guidelines, Exhibit 9			
Land Use Recommendations do not reflect an FAA standard or guideline; areas are based on FAR Part 77 and FAA Safety Zones.			

4 * A conditional use approval is required in order to be located within or below designated AREA 2, subject
5 to Land Use Compatibility Guidelines contained herein.

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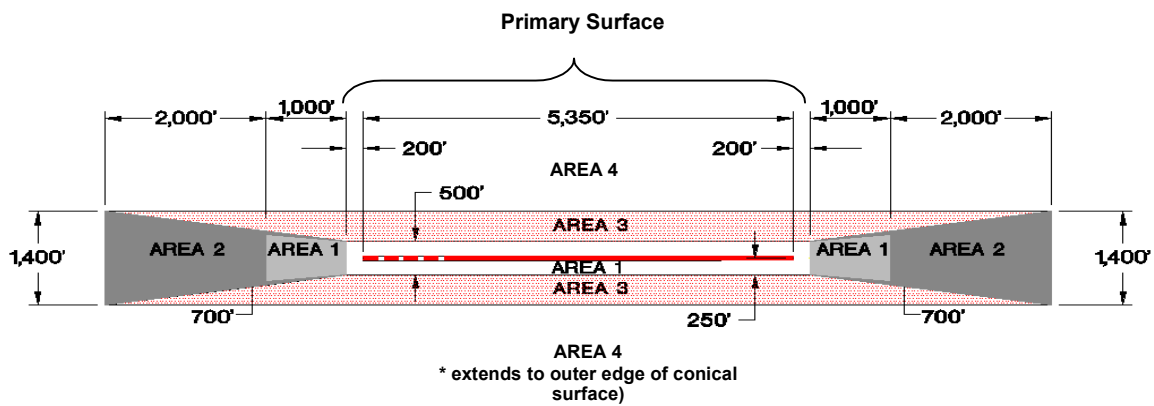
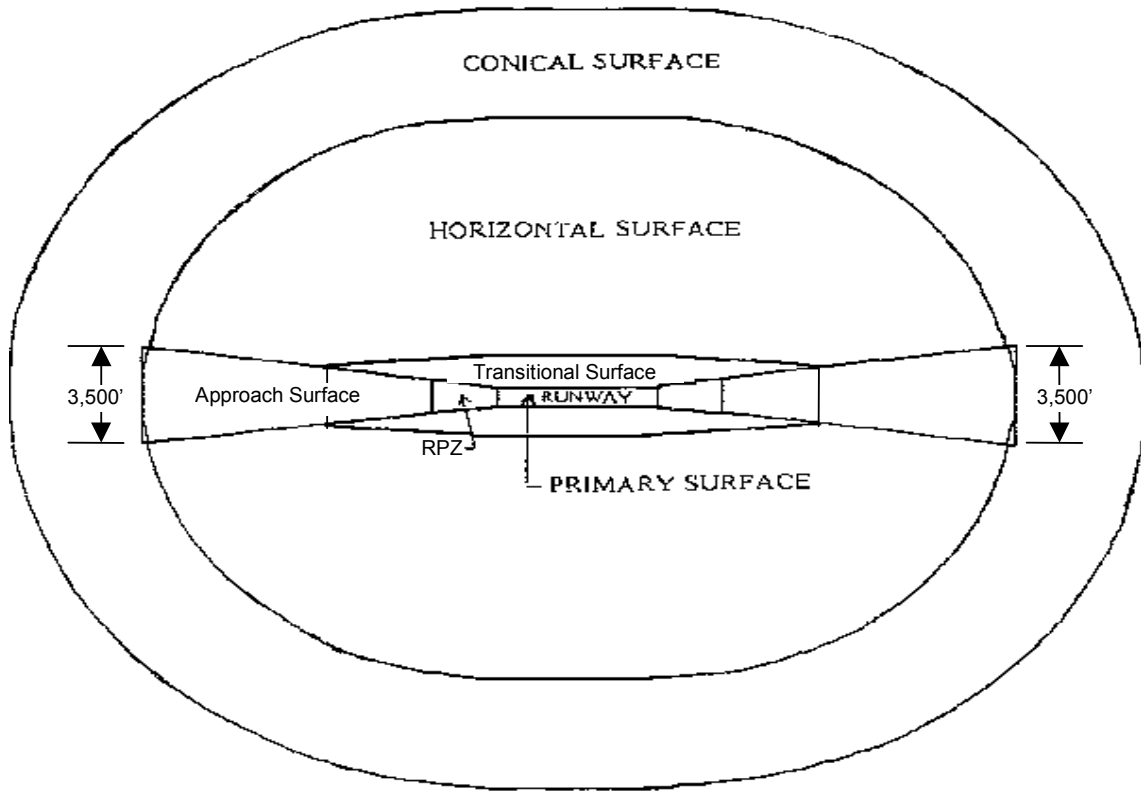
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KEY TO FIGURE 43.3.B

- A: CLEARLY COMPATIBLE** Exposure to accident potential is such that the activities associated with the land use may be carried out with essentially no interference and no substantial loss of life and property.
- B: NORMALLY COMPATIBLE** Exposure to accident potential is great enough to be of some concern, but density of people and structures, when property planned, will allow the accident potential environment to be acceptable.
- C: NORMALLY INCOMPATIBLE** The exposure to accident potential is significantly more severe so that unusual density restrictions are necessary for safety of life and property.
- D: CLEARLY INCOMPATIBLE** The exposure to accident potential at the site is so severe, due to potential loss of life and property, that performance of land use activities is not advisable.

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1 **FIGURE 43.3.C AE SUB-DISTRICTS AND LAND USE COMPATIBILITY GUIDELINES**
 2



1 **43.4. Site Development Standards.**

2 1. **General Requirements.** Within the AICUZ and AE, an application for subdivision or site plan
3 approval, conditional use approval, or variance, except for agricultural uses, shall be subject to
4 Site Plan Review pursuant to Chapter 60 of this Ordinance, and, shall not be approved except
5 upon receipt of evidence of filing of a "Notice of Proposed Construction or Alteration" with the
6 Federal Aviation Administration (FAA). Where required by 14 CFR Part 77, as amended,
7 development applications are required to document site elevations in relation to the AE Overlay
8 Subdistrict surfaces (43.1.2.b) and the AICUZ subdistricts (43.1.2.a). An area located in more than
9 one of the AE Overlay Subdistrict surfaces is considered to be only in the surface with the more
10 restrictive height limitation. Documentation of site elevations shall consist of a topographic map
11 of the site showing contours for every five feet of elevation change to illustrate the elevation above
12 mean sea level; the location and height of any proposed buildings or structures, as well as natural
13 features that impinge upon the AE Overlay Subdistrict surfaces; and the elevation of the aviation
14 facility affecting the applicant's property.

15 a. **Conditional Use Application.** Within the AE surface restrictions described at Section
16 43.3, any application for subdivision or site plan approval within or below AREA 2, shall
17 be subject to Conditional Use application in accordance with Chapter 25 of this
18 Ordinance.

19 b. **Review by Airport Manager.** Any application for subdivision approval, site plan
20 approval, conditional use approval, or variance within the AE overlay shall be referred to
21 the director of the department responsible for the Airport Master Plan for comment on the
22 potential impact of the proposal on aviation and/or airport operations or proposed
23 expansions prior to the issuance of any approval or building permit within the AE
24 overlay.

25 2. **Construction or Alteration Requiring Notice.** Zoning approval for development required to file a
26 "Notice of Proposed Construction or Alteration" with the Federal Aviation Administration, (FAA)
27 as set forth below, shall be conditioned upon evidence of filing of a Notice of Proposed
28 Construction or Alteration with the FAA. A Notice of Proposed Construction or Alteration shall be
29 completed by the applicant and submitted to the director of the department responsible for the
30 Airport Master Plan and to the FAA for review and approvals for:

31 a. Any construction exceeding 100 feet in height above ground level at the site;

32 b. Any construction greater in height than an AE Overlay Subdistrict surface extending
33 outward and upward at one of the following slopes:

34 (1) 100 feet horizontal to 1 foot vertical for horizontal distance of 10,000 feet from
35 the nearest runway (end or side) of an airport with at least one runway more than
36 3,200 feet in length, excluding heliports.

37 (2) 50 feet horizontal to 1 foot vertical for a horizontal distance of 10,000 feet from
38 the nearest runway (end or side) of an airport with at least one runway no more
39 than 3,200 feet in length, excluding heliports;

40 (3) 23 feet horizontal to 1 foot vertical for a horizontal distance of 5,000 feet from
41 the nearest point of the nearest landing and take off area of each heliport.

42 **OR**

43 c. Any transportation routes/structure (bridges, railways, highway, waterways) for which the
44 height of the tallest vehicle anticipated to traverse the route/structure will exceed the
45 height of an AE Overlay Subdistrict surface extending outward and upward as set forth at
46 Section 43.4.2.b (1)-(3) above.

47 3. **Performance Standards.** The following performance standards shall apply to all uses within the
48 AICUZ or the AE overlay districts:

- 1 a. No proposed development or land use shall create electrical or electronic interference
2 with communications among aviators and/or ground control personnel.
- 3 b. No proposed development or land use shall make it difficult for aviators to distinguish
4 between airport lights and other lights or cause glare in the eyes of aviators using the
5 airport or airport facilities.
- 6 c. No proposed development or land use may emit smoke, fly ash, dust, steam, vapor, gases
7 or other forms of air emissions that would impair visibility in the vicinity of the airport;
8 otherwise interfere with the safe operation of aircraft; or endanger the landing, take-off,
9 or maneuvering of aircraft at the airport or in the vicinity of the airport.

10 **43.5. Airport Easements, Restrictions, and Covenants.**

11 The following notes shall be included on all record plats of lands wholly or partly within the AE Overlay
12 District and subdivided after the adoption of this provision:

- 13 1. Within the area of the tract hereby created, no structure, erection, object, growth of trees, or
14 vegetation within the boundaries of the tract herein describes, nor any other objects placed within
15 said tract, shall penetrate the AE Overlay Subdistrict surfaces of an airport or heliport. Owner,
16 his/her/their/its heirs, successors and assigns shall be responsible for maintaining and pruning trees
17 and vegetation so this height restriction is not exceeded.
- 18 2. The land-owner expressly reserves for the use and benefit of itself and the public a right of flight
19 for the passage of aircraft in the airspace above the lands identified herein, together with the right
20 to cause above such tract all such noise, fumes, dust, vibration and fuel particles as may be
21 inherent in the operation of aircraft using said airspace using said airspace for landing and taking
22 off from the St. Mary's County Regional Airport and other regulated public landing strips.

1 **CHAPTER 44 PLANNED UNIT DEVELOPMENT (PUD) FLOATING ZONE**

2 Sections:

- 3 44.1 Intent.
- 4 44.2 Conditions.
- 5 44.3 Application Procedures for Planned Unit Developments.
- 6 44.4 Review and approval of Development Plan.
- 7 44.5 Submission Requirements for a Development Plan.
- 8 44.6 Types of Planned Unit Developments.
- 9 44.7 General Regulations for Planned Unit Developments.
- 10 44.8 Detailed Site Plan and Subdivision Plat.
- 11 44.9 Regulations for PUD-R, Planned Unit Development – Residential.
- 12 44.10 Regulations of PUD-MHP, Planned Unit Development – Mobile Home Park.
- 13 44.11 Regulations of PUD-CP, Planned Unit Development – Commercial Park Districts.
- 14 44.12 Regulations for PUD-IP, Planned Unit Development – Industrial Park.
- 15 44.13 Regulations for PUD-CM, Planned Unit Development – Commercial Marine.
- 16 44.14 Regulations for PUD-X, Planned Unit Development – Mixed Use.
- 17 44.15 Common Open Space Document.
- 18 44.16 Guarantee Deposit
- 19 44.17 Delinquent Taxes

20 **44.1. Intent.**

21 Planned Unit Development (PUD) floating zones are designed to encourage innovative and creative design
22 of residential, commercial, and industrial development; facilitate use of the most advantageous construction
23 techniques; and maximize the conservation and efficient use of open space and natural features. These
24 floating zones are designed to further the purposes and provisions of the Comprehensive Plan and to
25 conserve public fiscal resources, efficiently utilize public facilities and courses, and provide a broad range
26 of housing and economic opportunities to present and future residents of the County.

27 **44.2. Conditions.**

28 Rezoning to Planned Unit Development will be permitted only in accordance with a development plan that
29 is reviewed by the Planning Commission with a recommendation to the Board of County Commissioners,
30 who hold approval authority, and may approve the same in accordance with the procedures and standards
31 contained within this Section and Article 2

32 **44.3. Application Procedures for Planned Unit Developments.**

33 1. **Preapplication Conference:** Prior to filing a formal application for approval of a planned
34 development, the applicant shall request a pre-application conference with the Planning Director,
35 or designee, and the Planning Commission. The purpose of such conference is to allow the
36 applicant to present a general concept of the proposed development prior to the preparation of
37 detailed plans. For this purpose, the presentation shall include, but not be limited to, the
38 following:

- 39 a. Written “letter of intent” from the applicant establishing his or her intentions as to
40 development of the land; and
- 41 b. Topographic survey and location map; and
- 42 c. Concept plans and ideas regarding land use, dwelling type and density, street and lot
43 arrangement, and tentative lot sizes; and
- 44 d. Tentative proposals regarding water supply, sewage disposal, surface drainage, and street
45 improvements.

1 2. The Planning Director, or designee, and the Planning Commission shall advise the applicant of the
2 zoning requirements and the County's plans that might affect the proposed development, as well
3 as the procedural steps for approval.

4 **44.4. Review and approval of Development Plan.**

5 Following the pre-application conference, a development plan conforming with Section 44.5 of this
6 Ordinance and an application shall be submitted to the Planning Director for circulation to the county
7 departments and agencies, the Planning Commission, and the Board of County Commissioners. Public
8 hearings on the proposal shall be conducted according to Chapter 21, including notice. The Board of
9 County Commissioners shall approve, approve with conditions, or disapprove the development plan and
10 application. In approving an application for a planned development, the Board of County Commissioners
11 may establish such conditions and require such modifications as necessary to assure compliance with all
12 applicable and adopted standards and regulations, to maintain the purposes and provisions of the
13 Comprehensive Plan, and to protect public facilities and utilities. An approved development plan, when
14 recommended by the Planning Commission and approved by the Board of County Commissioners, may
15 serve as an approved subdivision concept plat.

16 1. ***Review of Plan by the Planning Commission.***

17 a. *Review and Recommendation.* In considering an application for the zone, the Planning
18 Commission shall consider whether the application and the accompanying development
19 plan fulfill the purposes and requirements of the zone. The Planning Commission shall
20 recommend approval, approval with recommended modifications or disapproval of the
21 development plan that accompanies the application. The Planning Commission shall
22 forward its written recommendations to the Board of County Commissioners and the
23 applicant, together with the technical staff report thereon.

24 b. *Amendment of a Development Plan Prior to Approval.* A development plan may be
25 amended by the applicant prior to review and recommendation by the Planning
26 Commission. In the event of any change or modification in a development plan
27 subsequent to the recommendation of the Planning Commission but prior to the report
28 and recommendation of the Planning Commission, such change or modification shall be
29 submitted by the Planning Director to the Planning Commission for its recommendations.
30 The Planning Commission shall submit the recommendation within 60 days of the
31 submission of the change or modification to the Board of County Commissioners, unless
32 the applicant shall have agreed in writing to an extension of such time limit.

33 2. ***Review of an Action on the Development Plan by the Board of County Commissioners.***

34 a. Establishment of a PUD district by the Board of County Commissioners shall be deemed
35 to constitute approval of the development plan, which is a part of the application for
36 zoning reclassification.

37 b. *Basis for Approval.* Before approving an application for the zone, the Board of County
38 Commissioners shall consider whether the application and development plan fulfills the
39 purposes and requirements set forth in this section. The fact that an application complies
40 with all of the specific requirements and purposes set forth herein shall not be deemed to
41 create a presumption that the proposed development would carry out the purposes of this
42 section, nor that it would result in compatibility with surrounding development; nor shall
43 compliance by itself be sufficient to require the granting of the PUD district or the
44 approval of the development plan submitted. The Board of County Commissioners shall
45 make the following specific findings, in addition to any other findings that may be found
46 to be necessary and appropriate for the approval of the proposed reclassification:

47 (1) That the proposed development complies with the purposes of the PUD district
48 as set forth in this section and provides for the safety, convenience and amenity
49 of the residents of the development and the neighboring area; and

50 (2) That the proposed development complies with standards set forth in this section
51 and will otherwise be compatible with the surrounding neighborhood; and

-
- 1 (3) That the proposed vehicular and pedestrian transportation systems are adequate
2 and efficient; and
- 3 (4) That any proposals including restrictions, covenants agreements or other
4 documents, that show the ownership and method of assuring perpetual
5 maintenance of those areas intended to be used for recreational or other common
6 or quasi-public purpose are adequate and sufficient; and
- 7 (5) That essential community facilities and services for the type of development
8 under consideration, such as schools, recreation areas, police and fire protection,
9 shall be reasonably accessible to the development or provisions made to assure
10 such facilities and services will be provided.

11 3. ***Approval of the Development Plan.***

- 12 a. The planned development project shall be developed only according to the approved final
13 plan and all supporting data. The recitals and provisions of the ordinance under which
14 the development plan is adopted and, the development plan and all supporting data,
15 together with all amendments, shall be recorded in the land records and be binding on the
16 applicants, their successors, grantees, and assigns and shall limit and control the use of
17 premises (including the internal use of buildings and structures) and location of structures
18 in the planned development project as set forth therein.
- 19 b. Except as provided in the ordinance adopting the development plan or the exhibits and
20 attachments thereto, nothing contained herein shall affect vesting or grandfathering
21 provisions of an approved development plan. The approving ordinance adopted by the
22 Board of County Commissioners for the PUD shall be the controlling ordinance for the
23 lands incorporated into the PUD for the purposes as set forth herein, including but not
24 limited to, phasing, staging and scheduling of the development.

25 4. ***Amendment of the Ordinance Adopting the Development Plan.***

- 26 a. *Major Changes.* Changes that alter the concept or intent of the planned development
27 (including, but not limited to, increases in density; reductions of proposed open space;
28 change in type; changes in road standards, access, utilities, water, electricity, and
29 drainage) or changes in the final governing agreements, provisions, or covenants may be
30 approved only by submission of a new preliminary plan and supporting data and
31 following the “development approval” steps set forth above. Hearing and notice shall be
32 according to Chapter 21.3. In addition, notice shall be given to owners of land within the
33 PUD by certified or registered mail.
- 34 b. *Minor Changes.* The Planning Commission may approve minor changes in the planned
35 development that do not change the concept or intent of the development without going
36 through the “preliminary approval” steps. Minor changes are defined as any change not
37 defined as a major change. All changes to the final plan shall be recorded as in (3) above.

38 5. ***Revocation of or Amendment to an Approved Development Plan.***

- 39 a. *Revocation of Approval or Proposal of Major Amendment to the Development Plan.* The
40 Board of County Commissioners may revoke approval of a development plan or, on its
41 own initiative, propose major amendment to the plan, at the Board’s discretion, if
42 construction falls more than one year behind the schedule filed with the development
43 plan or construction exceeds 15 years. The applicant shall be notified at least 60 days
44 prior to any revocation hearing. Extensions in the building schedule may be granted by
45 the Board of County Commissioners, subject to review of:
- 46 (1) The extent to which any delay was caused by the action or inaction of the
47 applicant as opposed to other factors beyond the control of the applicant; and
- 48 (2) The amount of investment made in the project as of the date of the application
49 for revision; and

1 (3) Any impact to the health and welfare of the county caused by the revision or any
2 delay associated therewith; and

3 (4) Market conditions.

4 b. *Phasing Approvals.* If in the sole determination of the Board of County Commissioners,
5 the PUD is not in conformance to its build-out schedule, the development shall be subject
6 to phasing approvals contingent upon meeting the provisions regarding “adequate
7 facilities” for roads, schools, water supply, sewage disposal, stormwater management,
8 and fire suppression of the zoning ordinance in place at the time of site plan or
9 subdivision plan application.

10 **44.5. Submission Requirements for a Development Plan.**

11 Any application for designation as a Planned Unit Development district shall be submitted to the Planning
12 Director and accompanied by a development plan with drawings at a scale sufficient to read all details of
13 the proposal. Application shall be submitted as for other zoning amendments pursuant to Chapter 28.
14 Sufficient copies of all plans, maps, studies and reports as required in this section must be submitted for
15 necessary referrals and records.

16 1. An application must include the following development vicinity information:

17 (1) Vicinity map.

18 (2) Names of property owners, zoning districts and deed references for adjacent
19 property.

20 (3) Existing land uses of adjoining tracts,

21 (4) Existing and proposed streets and highways including names, present and
22 projected conditions, and capacity of the street network.

23 (5) Location and description of community facilities such as schools, parks, county
24 facilities, and other services that would serve the site.

25 (6) Location, description and analysis of present and projected utilities, such as
26 water, sewer, refuse disposal, and utilities that would service the subject site.

27 (7) Delineation of APZ zones on official AICUZ maps (or any other overlay zoning
28 district) located in the office of Land Use and Growth Management.

29 2. Applicant shall include a boundary survey and legal description of the property, including total
30 area of the site.

31 3. Applicant shall include a topographic map(s) with minimum contour intervals of two feet and a
32 scale consistent with the development plan.

33 4. Applicant shall include evidence of marketable interest in the property, including title insurance
34 policy or similar document showing owner or owners; marketable title, and source of applicant's
35 interest in property.

36 5. An applicant shall include the following development site information:

37 a. Slope analysis shall indicate slopes in excess of 15 percent in the Critical Area and in
38 excess of 20 percent outside of the Critical Area.

39 b. Water courses and drainage areas, including all appropriate buffers.

40 c. Existing and proposed on-site features such as structures, roads, utilities, easements, or
41 rights-of-way.

42 6. Applicant shall include the following information in a development program:

43 a. Type and amount of land uses.

44 b. Number, type, and mix of dwelling units.

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- 1 c. Development schedule and projected market absorption, approximate dates for beginning
2 and completion of each phase, and estimated cost of each phase of development.
- 3 d. A schedule for at least bi-annual reports to the Planning Commission, including the
4 number of residential units or square feet of non-residential space constructed, and an
5 updated market absorption report and revised schedule and completion time table.
- 6 7. An applicant shall include the following development design information with an application.
- 7 a. A land use plan or plans showing a typical location and arrangement of all types of
8 proposed land uses, height of buildings, setbacks and side yards, proposed internal and
9 external traffic circulation (including widths, driveways, and access), pedestrian
10 circulation, proposed open space and recreation areas, and dedications and easements.
- 11 b. A general landscaping and screening plan showing typical types, location, and design of
12 landscaping and screening.
- 13 c. Covenants, restrictions, and conditions pertaining to the use, maintenance and operation
14 of common open space.
- 15 d. A tabular summary of anticipated densities; total number of dwelling units; percentage of
16 site devoted to buildings, open space, recreation area, streets and parking areas; and total
17 floor area of all non-residential structures shown as FAR.
- 18 e. A plan showing proposed typical parking arrangements.
- 19 f. Architectural diagrams of typical proposed structures, typical recreation areas, typical
20 landscaping and screening areas, and typical development clusters.
- 21 g. A plan or report indicating the extent, schedule, and estimated cost of all off-site
22 improvements such as roads and public water and sewer mains and drainage facilities
23 necessary to the construction, occupancy, and use of the planned development.
- 24 h. A report or plan showing the adequacy of public facilities and services such as water, fire
25 suppression, sewer, drainage, schools, streets and roads to serve the proposed
26 development.
- 27 i. A report showing the fiscal impact of the proposed development on the County. Said
28 report shall be prepared by an economic consultant selected by the County and reviewed
29 by the County Staff, with the costs of such study assessed to the applicant as set forth in
30 the County's Fee Schedule.
- 31 j. A statement delineating how the proposed development is consistent with the
32 Comprehensive Plan.
- 33 k. A preliminary plan for sedimentation and erosion control.
- 34 l. A plan for protection of natural stormwater management resources areas.

35 **44.6. Types of Planned Unit Developments.**

36 Residential PUDs may be located in the RL, RH, RMX, VMX, TMX, DMX, and CMX districts subject to
37 the provisions of this Article and development plan approval. Non-residential PUDs may be located in any
38 district except RSC and RCL districts.

39 **44.7. General Regulations for Planned Unit Developments.**

- 40 1. **Required Area.** The following minimum land areas shall be required for each Planned Unit
41 Development district. There shall be a minimum size for each new PUD floating zone. The
42 minimum required areas may be in a parcel in single ownership or in combination with contiguous
43 parcels. If an application is to be made for rezoning to Planned Unit Development districts in
44 contiguous parcels, the applicant must provide legal agreements showing marketable title to the
45 subject properties by such owner or owners and the source of the applicant's title and interest in
46 the subject properties.

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- 1 a. PUDR: Five acres minimum
- 2 b. PUD-MHP: Five acre minimum
- 3 c. PUD-CP: Minimum acreage:
- 4 (1) Village Center: Two acres.
- 5 (2) Town Center: Five acres.
- 6 (3) Development District: 10 acres.
- 7 d. PUD-IP:
- 8 (1) Minimum area required for creation of PUD-IP district shall be 20 acres,
9 provided, however, that when an initial PUD-IP district has been created,
10 incremental additions to such district shall consist of not less than five acres.
- 11 (2) Where individual lots or buildings sites are provided for lease or sale, the
12 minimum area required shall be one acre.
- 13 e. PUD-CM: One acre minimum.
- 14 f. PUD-X: Five acre minimum.
- 15 g. PUD – Major Recreational Facilities: 15 acres minimum.
- 16 h. PUD – Recreational Facilities, Motor Sports Facilities: 90 acre minimum in the RPD.
- 17 2. **Permitted Densities, Intensities and Uses.** Maximum allowed density and intensity in Planned
18 Unit Development districts may be achieved through the purchase of TDR's.
- 19 3. **Use Classifications in a PUD.** Any use in Chapter 50, Use Classifications, may be included in a
20 PUD plan, provided that the use and the density/intensity of the use is consistent with:
- 21 a. The use concept for the area set forth in the Comprehensive Plan.
- 22 b. The specific purpose of the base district in which the PUD is proposed.
- 23 4. **Use Permitted in a PUD.** All uses in a PUD shall be identified in the approved PUD plan. Uses
24 not specifically allowed under an approved PUD plan are prohibited.
- 25 5. **Shape of Planned Unit Development Districts.** The shape of the district shall be suitable for the
26 type of development proposed and shall facilitate safe and convenient ingress and egress as well as
27 vehicular and pedestrian circulation within the district.
- 28 6. **Improvement Guarantees.**
- 29 a. The applicant shall maintain at his own cost the said required improvements, until the
30 same are accepted by the County.
- 31 **44.8. Detailed Site Plan and Subdivision Plat.**
- 32 1. **Procedures for Site Plan and Subdivision Cross Reference.** Upon approval of the development
33 plan and application, the applicant may prepare and submit site plans or subdivision plats and
34 engineering drawings in accordance with the standards and procedures contained in Article 6 of
35 this Ordinance and the Subdivision Ordinance and in conformity with the approved development
36 plan. All building permits and occupancy permits shall be issued upon the approval of the site
37 plan or subdivision plat and upon payment of appropriate fees as may be required by the Board of
38 County Commissioners.
- 39 2. **Detailed Site Plan Requirements.** The detailed site plan shall be submitted in accordance with
40 Article 6 of this Ordinance and shall provide the following information:
- 41 a. All of the information required for the submission of a subdivision plan, as set forth in
42 the Subdivision Ordinance.

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- 1 b. The existing topography and proposed grading of the site at contour intervals of not more
2 than two feet, including existing vegetation and other natural features, bodies of water
3 and water courses, 100-year floodplains, existing tree and plant cover, scenic views, land
4 forms and existing structures.
- 5 c. Water runoff drawings and calculations, and plans for siltation and erosion control, both
6 during and after construction.
- 7 d. The location of each unit or structure; the height, ground coverage and use of all
8 structures, and the locations and areas of open spaces.
- 9 e. Calculations of density, areas of land use, and open space.
- 10 f. The location of all sewer, water, and storm drainage lines, and all easements and rights-
11 of-ways, existing or proposed.
- 12 g. The location of adjacent highways and streets serving the site, noting centerline, widths
13 of paving, grades and median break points.
- 14 h. The location, dimensions, and grades of all roads, streets, and driveways, parking
15 facilities, loading areas, points of access to surrounding streets and pedestrian walks and
16 pathways.
- 17 i. The floor areas of all non-residential buildings.
- 18 j. The landscaping and screening plan, showing all man-made features and the location,
19 size, and species of all planting materials.
- 20 k. An exterior lighting plan, (if exterior lights are proposed), including the height, number
21 and type of fixtures to be installed and the computed average light intensity levels to be
22 provided.
- 23 l. The location of all active recreation areas and community facilities or structures,
24 indicating the location and use of all land to be dedicated to public use.
- 25 m. Information showing how each detailed site plan is related to and coordinated with the
26 development of the remainder of the PUD. This information shall be necessary only if a
27 detailed site plan in one of a number of detailed site plans within a planned development.
- 28 3. ***Other Information to Accompany the Detailed Site Plan.*** Applicant shall submit documents
29 indicating in detail the manner in which any land or facilities intended for common or quasi-public
30 use but not proposed to be in public ownership will be held, owned, and maintained in perpetuity
31 for the indicated purposes.
- 32 4. ***Approval of Site Plan by the Planning Commission.*** The Planning Commission shall be the
33 approving authority pursuant to Article 6 for each detailed site plan. The Planning Commission
34 shall notify the applicant in writing of its action not later than 60 days after receipt by the Planning
35 Commission of the detailed site plan, unless the applicant consents in writing to an extension of
36 the time limitation. In reaching its decision upon each detailed site plan, the Planning
37 Commission shall consider and determine whether the detailed site plan is substantially in
38 accordance with the approved development plan.
- 39 **44.9. Regulations for PUD-R, Planned Unit Development – Residential.**
- 40 1. A PUD-R shall have the following characteristics.
- 41 a. The PUD shall not create any adverse impact upon the primary road system. The
42 Planning Commission may recommend and the Board of County Commissioners may
43 require additional traffic improvements as necessary to reduce hazards and facilitate
44 traffic flow.
- 45 b. The following minimum open space areas shall be required in PUD-R districts:

Net Dwelling Units per Acre	Total Open Space Required Per Dwelling Unit Including Common Open Space and Developed Recreation Space (in square feet)	Required Developed Recreation Space Per Dwelling Unit (in square feet)
1.0	18,000	3,600
1.5	14,500	2,900
2.0	10,890	2,200
3.5	6,225	1,250
5.0	4,400	800

(1) For the purposes of this section, total open space areas shall not be improved with buildings, structures, streets, roads or parking areas. Open space areas may include dedicated open space, common open space, drainage areas, and developed recreation area. Developed recreation space shall be of such size and dimensions to be usable for the activity for which it is designed or intended.

44.10. Regulations of PUD-MHP, Planned Unit Development – Mobile Home Park.

1. **Design and layout.** This district encourages freedom in the design of mobile home developments and the grouping and layout of mobile homes within such developments to:

- a. Provide in such developments the amenities normally associated with planned residential areas;
- b. Require the development of well-planned associated facilities and services, linking residential and recreational facilities;
- c. Encourage site and development plans that will maximize compatibility between mobile home developments and development on adjoining land; and
- d. Permit freedom in type of ownership within mobile home developments.

2. **Permitted Structures.** The following structures may be permitted in the PUD-MHP:

- a. Mobile homes with a minimum of 720 square feet that are a minimum 12 feet in width; and
- b. Double-wide mobile homes.

3. **Accessory Structures and Uses.** No sales lot for mobile homes may be established within the PUD-MHP. However, the following accessory structure may be permitted in the PUD-MHP.

- a. Uses and structures that are generally considered accessory and clearly incidental to the principal uses;
- b. Utility buildings; and
- c. Spaces and structures designed to be utilized by the residents of the development (i.e., community center, laundry, recreational area, etc.)

4. **Density of Development.** A maximum of five mobile home stands/pads per acre may be permitted.

5. **Minimum Dimensions.** The following minimum dimensions shall be established for the PUD-MHP:

- a. For either a mobile home park (rental units) or mobile home subdivision (land and/or unit ownership) the minimum size of the PUD shall be five acres (not in combination). The tract shall comprise a single plot except where the site is divided by public streets or alleys where the total property includes separate parcels for necessary utility plants, maintenance or storage facilities, and the like, with appropriate access from the park,

- 1 provided that all lands involved shall be so dimensioned and related as to facilitate
2 efficient design and management.
- 3 b. For a proposal that includes both a mobile home subdivision and mobile home park, the
4 minimum size of the PUD shall be 10 acres. The park portion shall be separate from the
5 subdivision. The subdivision portion shall consist of at least 10 acres and shall meet all
6 other requirements for subdivisions. In the case of subdivision areas, mobile home units
7 and their accessory structures shall occupy not more than 30 percent of lot area per parcel
8 and a minimum lot size of 4,000 square feet per unit shall be provided.
- 9 **6. Development Standards.**
- 10 a. Developments shall meet all of the applicable requirements for regulation 10.02.23 of the
11 Maryland State Department of Health and Mental Hygiene governing construction,
12 equipment, sanitation, operation, and maintenance of mobile home parks except insofar
13 as the Planning Commission may recommend and if the Maryland Department of Health
14 & Mental Hygiene grants an exception. In addition, the following specific standards
15 shall apply:
- 16 (1) No tract of land shall be classified as a PUD-MHP district unless the Board of
17 County Commissioners find that it meets one of the following criteria:
- 18 (a) The tract has an area of at least five (5) acres, and meets the minimum
19 dimensional requirements contained in this section; or
- 20 (b) The tract is so located that it would make possible a logical extension
21 of an existing mobile home development.
- 22 b. No land shall be classified as a PUD-MHP district unless its proposed sewerage disposal
23 system has been reviewed and approved by the Health Department or the St. Mary's
24 County Metropolitan Commission.
- 25 c. All utility lines shall be placed underground.
- 26 d. In order to provide for storage of personal effects of the mobile home park residents, at
27 least 80 square feet of enclosed storage space shall be provided, either in an individual
28 structure adjacent to each mobile home stand or in a common building within 600 feet of
29 the residential units.
- 30 e. The design of the mobile home development shall provide for compatibility between the
31 use and development of the adjacent land.
- 32 f. Walkways shall form a safe and convenient system for pedestrian access to all mobile
33 homes, on-site facilities, and principal off-site pedestrian destinations.

34 **44.11. Regulations of PUD-CP, Planned Unit Development – Commercial Park Districts.**

35 This district may be applied to permit the development of village, town, and regional commercial centers in
36 scale with surrounding market areas at locations recommended in the Comprehensive Plan and in
37 accordance with the standards set forth therein. These centers shall serve areas not already conveniently
38 and adequately provided with commercial service facilities of the kind proposed. It is intended to permit
39 the establishment of such districts only where planned centers with carefully organized buildings, service
40 areas, parking areas, and landscaped open space will clearly serve demonstrated public needs, reduce
41 marginal traffic friction below that which would result from strip commercial development along
42 highways, and protect property values in surrounding neighborhoods. It is further intended that PUD-CP
43 districts shall foster a broad range of facilities and services appropriate to the general need of the area
44 served.

45 **1. Minimum Yard and Lot Requirements.**

- 46 a. The minimum yard and lot requirements shall be as set forth in the base zoning district,
47 except as otherwise provided in the Development Plan.

48 **2. Vehicular and Pedestrian Entrances and Exits.**

1 a. Principal vehicular access for the general public shall be from roads classified as major
2 collector or higher. Vehicular access from roads classified as minor collectors or lower
3 through residential neighborhoods shall generally be avoided, but, where permitted, shall
4 be so located, designed, and controlled as to be primarily for convenience of residents of
5 adjoining residential areas and not for general public access. Pedestrian access may be
6 provided at any suitable location within the district, but shall, as a general rule, be
7 separated from vehicular access points in order to reduce congestion, marginal friction,
8 and hazards.

9 b. The Planning Commission may require service drives and acceleration, deceleration,
10 passing or turning lanes at principal vehicular access points, with length and width as
11 appropriate to the anticipated flow of traffic. The Planning Commission may require
12 traffic separation devices at such entrances and exits and long service drives and
13 acceleration, deceleration, passing, or turning lanes. Whether required or provided
14 voluntarily, such service drives or acceleration, deceleration, passing or turning lanes may
15 be included as part of the required yard adjacent to a road classified as major collector or
16 higher except that no such service drive or lane, and no vehicular entrance or exists, shall
17 run through any part of any required landscaped yard.

18 3. ***Site Planning-External Relationships.***

19 a. When possible, commercial and service uses and structures and their parking areas and
20 walkways shall be oriented toward roads classified as major collector or lower in
21 residential neighborhoods or adjacent residential neighborhoods that are not separated
22 from the district by streets. Landscaping or other devices shall be used to screen
23 surrounding residential districts from views into the PUD-CP districts and to screen the
24 PUD-CP districts from external exposures. In particular, all service and loading areas
25 shall be screened from view from public streets and from first floor windows in adjacent
26 residential districts. Parking areas for more than 10 automobiles shall, insofar as
27 reasonably possible, be screened from view by landscaping fences, walls or relation to
28 buildings.

29 4. ***Site Planning-Internal Relationships.***

30 a. Commercial buildings shall be so grouped in relation to parking areas that after
31 customers arriving by automobile enter the park, establishments can be reached by
32 walkways with a minimum of internal automotive movement. Facilities and access
33 routes for deliveries, service, and maintenance shall, in so far as reasonably practicable,
34 be separated from customer access routes and parking areas. Areas where deliveries to
35 customers in automobiles are to be made or where services are to be provided for
36 automobiles shall be located and arranged to prevent interference with pedestrian traffic
37 within the PUD-CP.

38 **44.12. Regulations for PUD-IP, Planned Unit Development – Industrial Park.**

39 Planned Unit Development Industrial Park districts, hereinafter called PUD-IP may be created as planned
40 developments of primarily light and medium industrial uses. PUD-IP districts may include areas devoted
41 to industrial uses that present an attractive appearance and complement the character of surrounding land
42 use by means of appropriate siting of buildings and service areas and landscape treatment. It is intended
43 that PUD-IP districts be located in areas having all of the following: adequate water and sewer facilities;
44 one or more roads classified as major collector or higher; and clearly demonstrated suitability for intended
45 uses insofar as physical characteristics and relationship to surrounding development.

46 1. ***Minimum Yard and Lot Requirements.***

47 a. The minimum yard and lot requirements shall be as set forth in the base zoning district,
48 except as otherwise provided in the Development Plan.

49 2. ***Vehicular and Pedestrian Entrances and Exits.***

50 a. Principal vehicular access for the general public shall be from major streets. Vehicular
51 access from roads classified as minor collector or lower through residential

1 neighborhoods shall generally be avoided, but, where permitted, shall be so located,
2 designed and controlled as to be primarily for the convenience of residents of adjoining
3 residential areas and not for general public access. Pedestrian access shall be provided
4 using walkways at any suitable location to and within the district, but shall, as a general
5 rule, be separated from vehicular access points in order to reduce congestion, marginal
6 friction, and hazards.

7 b. The Planning Commission may require service drives and acceleration, deceleration,
8 passing or turning lanes at principal vehicular access points, with length and width as
9 appropriate to the anticipated flow of traffic. The Planning Commission may require
10 traffic separation devices at such entrances and exits and along service drives and
11 acceleration, deceleration, passing, or turning lanes. Whether required or provided
12 voluntarily, such service drives or acceleration, deceleration, passing or turning lanes may
13 be included as part of the required yard adjacent to a road classified as major collector or
14 higher except that no such service drive or lane, and no vehicular entrance or exits, shall
15 run through any part of any required landscaped yard.

16 3. **Site Planning – External Relationship.** Site planning within the district shall provide for
17 protection of individual lots from adverse surrounding influences, and for protection of
18 surrounding areas from adverse impacts from the district. Yards, fences, walls, or vegetative
19 screening shall be provided where needed to protect residential districts or public streets from
20 undesirable views, lighting noise, or other off-site influences. In particular, outdoor storage,
21 extensive off-street parking areas, and service areas for loading and unloading vehicles and for
22 storage and collection of refuse and garbage shall be effectively screened.

23 **44.13. Regulations for PUD-CM, Planned Unit Development – Commercial Marine.**

24 Planned Unit Development Commercial Marine districts, hereinafter called PUD-CM, may be created as
25 planned developments of commercial docking; facilities for waterfront sales, storage and processing of
26 finfish and shellfish products harvested from the Chesapeake Bay and its tributaries, and facilities for the
27 launching, docking, storage, fueling, sanitary servicing, and repair of the boats that are incidental to
28 fisheries. It is further the purpose of the PUD-CM district to provide for those locations where a full range
29 of marina services can be readily provided with minimal impact on surrounding areas.

30 1. **Minimum Yard and Lot Requirements.**

31 a. The minimum yard and lot requirements shall be as set forth in the base zoning district,
32 except as otherwise provided in the Development Plan.

33 2. **Vehicular and Pedestrian Entrances and Exits.**

34 a. Principal vehicular access for the general public shall be from roads classified as major
35 collector or higher. Vehicular access from roads classified minor collector or lower
36 through residential neighborhoods shall generally be avoided, but, where permitted, shall
37 be so located, designed and controlled as to be primarily for the convenience of residents
38 of adjoining residential areas and not for general public access. Pedestrian access maybe
39 provided at any suitable location within the district, but shall, as a general rule, be
40 separated from vehicular access points in order to reduce congestion, marginal friction,
41 and hazards.

42 b. The Planning Commission may require service drives and acceleration, deceleration,
43 passing or turning lanes at principal vehicular access points, with length and width as
44 appropriate to the anticipated flow of traffic. The Planning Commission may require
45 traffic separation devices at such entrances and exits and along service drives and
46 acceleration, deceleration, passing, or turning lanes. Whether required or provided
47 voluntarily, such service drives or acceleration, deceleration, passing or turning lanes may
48 be included as part of the required yard adjacent to a road classified as major collector or
49 higher except that no such service drive or lane, and no vehicular entrance or exits, shall
50 run through any part of any required landscaped yard.

1 3. **Site Planning – External Relationship.** Site planning within the district shall provide for
2 protection of individual lots from adverse surrounding influences, and for protection of
3 surrounding areas from adverse impacts from the district. Yards, fences, walls, or vegetative
4 screening shall be provided where needed to protect residential districts or public streets from
5 undesirable views, lighting, noise, or other off-site influences. In particular, outdoor storage,
6 extensive off-street parking areas, and service areas for loading and unloading vehicles and for
7 storage and collection of refuse and garbage shall be effectively screened.

8 **44.14. Regulations for PUD-X, Planned Unit Development – Mixed Use.**

- 9 1. PUD-X districts may be created to provide flexibility in development by providing for a mix of
10 residential uses with appropriate non-residential uses, alternative forms of housing, flexibility in
11 internal relationships of design elements and, in appropriate cases, increases in gross residential
12 densities over that provided in conventional districts.
- 13 2. PUD-X districts may be established by amendment of the Official zoning Maps in accordance
14 with the provisions set forth generally for planned development districts and with densities and
15 uses in locations in accordance with the recommendations of the Comprehensive Plan. PUD-X
16 districts are intended to serve as neighborhoods or mini-neighborhoods within designated
17 communities and development districts.
- 18 3. In order to encourage the community function, appropriate commercial and industrial uses shall be
19 provided in addition to a variety of residential uses. It is intended that commercial and industrial
20 development be limited to a scale appropriate to the support of the residential uses within the
21 PUD; however, additional commercial and industrial activity may be permitted upon a finding that
22 the area in which the PUD is to be located is not adequately served by such use(s).
- 23 4. Use mix, density/intensity, dimensional requirements, development performance standards, open
24 space, developed recreation space and other requirements shall be applied within the PUD-X
25 district based upon their component requirements from the respective PUD-R, CP, or IP districts
26 and their component uses.
- 27 5. Internal and external site planning relationships shall be governed by the use mix proposed in the
28 overall development plan. Relationships shall be referenced to the appropriate PUD-R, CP or IP
29 district requirements. External relationships shall apply based upon the appropriate requirements
30 for the proximity of respective PUD-R, CP or IP districts and their component uses.

31 **44.15. Common Open Space Document.**

32 All common space shall either be:

- 33 1. Conveyed to a County or public corporation or conveyed to a non-profit corporation or entity
34 established for the purpose of benefiting the owners and residents of the planned development or
35 adjoining property owners or any one or more of them. All lands conveyed hereunder shall be
36 subject to the right of the grantee or grantees to enforce maintenance and improvement of the
37 common open space; or
- 38 2. Guaranteed by a restrictive covenant running with the land for the benefit of residents of the
39 planned development or adjoining property owners or both. The covenant shall describe the open
40 space and its maintenance and improvement.

41 **44.16. Guarantee Deposit**

42 A deposit shall be made to the County, in the form of an irrevocable letter of credit (in a form approved by
43 the County Attorney) or maintenance bond, equal to 15 percent of the estimated cost of public facility
44 installations. This deposit shall be a guarantee of satisfactory performance of the facilities constructed
45 within the planned development and shall be held by the County for a period of 18 months, or until public
46 facilities have been completed, whichever is longer. The deposit shall be refunded if no defects have
47 developed. If defects have developed, the balance of such deposit shall be refunded after reimbursement
48 for amounts expended in correcting defective facilities.

- 1 **44.17. Delinquent Taxes**
2 A certificate shall be furnished from the County Treasurer confirming that no delinquent taxes are
3 outstanding and that all special assessments constituting a lien on the whole or any part of the property of
4 the planned development have been paid.