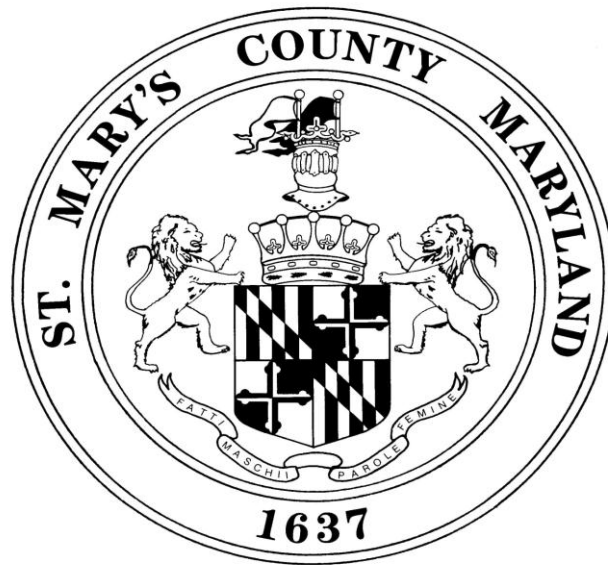


THE
ST. MARY'S COUNTY
COMPREHENSIVE ZONING ORDINANCE



ADOPTED AUGUST 31, 2010
EFFECTIVE SEPTEMBER 14, 2010
(AMENDED AUGUST 2, 2011)
(AMENDED SEPTEMBER 6, 2011)
(AMENDED JULY 31, 2012)
(AMENDED OCTOBER 2, 2012)
(AMENDED DECEMBER 18, 2012)
(AMENDED FEBRUARY 5, 2013)
(AMENDED DECEMBER 31, 2013)
(AMENDED FEBRUARY 20, 2014)
(AMENDED JULY 7, 2014)
(AMENDED NOVEMBER 18, 2014)

PREFACE

By the enactment of County Commissioners Ordinance No. Z-10-02, this Comprehensive Zoning Ordinance and its accompanying Official Zoning Map were adopted, and were subsequently recorded in the Land Records of the St. Mary's County Circuit Court. Copies of the Comprehensive Zoning Ordinance and representations of the of the Official Zoning Map are available for viewing or for sale from the County Commissioners by way of the St. Mary's County Department of Land Use and Growth Management, 23150 Leonard Hall Drive, Leonardtown, Maryland 20650.

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ORDINANCE

WHEREAS, Article 66B of the Maryland Annotated Code empowers the St. Mary's County Board of County Commissioners (hereinafter the "Board") to adopt a Comprehensive Plan and to enact a zoning ordinance to promote the health, safety and welfare of St. Mary's County and to provide for its administration, enforcement and amendment in accordance with the Comprehensive Plan; and

WHEREAS, on March 23, 2010, the Board executed Ordinance 2010-01 to adopt the St. Mary's County Comprehensive Plan (hereinafter the "Comprehensive Plan") and to make the Plan effective as of April 6, 2010; and

WHEREAS, the Board thereafter directed the St. Mary's County Planning Commission (hereinafter the "Planning Commission") to prepare amendments to the St. Mary's County Comprehensive Zoning Ordinance and Official Zoning Maps to implement the Comprehensive Plan; and

WHEREAS, the Planning Commission directed the St. Mary's County Department of Land Use and Growth Management (hereinafter "Staff") to accordingly prepare a draft Comprehensive Zoning Ordinance, including draft zoning maps, dated April 30, 2010 (hereinafter the "Draft Ordinance"); and

WHEREAS, the Planning Commission and the Board conducted joint public hearings on said Draft Ordinance on May 18, 19 and 20, 2010, following due notice published in the April 30 and May 5, 2010 editions of The Enterprise, a newspaper of general circulation in St. Mary's County; and

WHEREAS, the public hearing record remained open for additional written testimony until June 15, 2010; and

WHEREAS, during May and June 2010 the Planning Commission held eight (8) work sessions to deliberate on the public testimony received at the hearings and during the open record period, and gave direction to Staff to make certain changes to the Draft Ordinance; and

WHEREAS, on June 28, 2010, Staff delivered to the Planning Commission a modified Draft Ordinance, including zoning maps, which incorporates all revisions directed by the Planning Commission; and

WHEREAS, the Planning Commission completed its deliberations and by way of adopting Planning Commission Resolution No. 10-04, did recommend to the Board the repeal of the St. Mary's County Comprehensive Zoning Ordinance (Ordinance Z-02-01), and the adoption of said revised Draft Ordinance, including the adoption of revised zoning maps, dated June 28, 2010 (hereinafter the "Recommended Ordinance"); and

WHEREAS, during July and August 2010 the Board held seven (7) work sessions to deliberate on the public testimony received at the hearings and during the open record period, as well as on said Recommended Ordinance; and

WHEREAS, as a result of these deliberations the Board gave direction to Staff to make certain revisions to the Recommended Ordinance, including revisions to the accompanying zoning maps; and

WHEREAS, on August 31, 2010, Staff delivered to the Board a Final Ordinance, including zoning maps, which incorporates all revisions directed by the Board; and

WHEREAS, the Board finds that adoption and implementation of the Final Ordinance is necessary to protect and promote the public health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by the St. Mary's County Board of County Commissioners that the St. Mary's County Comprehensive Zoning Ordinance and Official Zoning Maps (Ordinance Z-02-01) is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that said Final Ordinance dated August 31, 2010 as set forth in Attachment 1 hereto, and the accompanying zoning map set forth in Attachment 2 hereto, are together hereby adopted as the St. Mary's County Comprehensive Zoning Ordinance; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that the foregoing recitals are hereby incorporated and adopted as if fully set forth; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that in the event any portion of this ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the ordinance, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this ordinance; and

BE IT FURTHER ORDAINED by the Board of County Commissioners for St. Mary's County that this enactment shall be effective on the date written below.

Those voting Aye: 4 *Mattingly, Dement, Russell, Raley*

Those voting Nay: 1 *Jarboe*

DATE OF ADOPTION: August 31, 2010

EFFECTIVE DATE: September 14, 2010

BOARD OF COUNTY COMMISSIONERS
ST. MARY'S COUNTY, MARYLAND

Francis J. Russell
Francis J. Russell, Commissioner President

Kenneth R. Dement
Kenneth R. Dement, Commissioner

— No —
Lawrence D. Jarboe, Commissioner

Thomas A. Mattingly, Sr.
Thomas A. Mattingly, Sr., Commissioner
Daniel H. Raley
Daniel H. Raley, Commissioner

ATTEST: *[Signature]*

John Savich
County Administrator

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

[Signature]
George Sparling
County Attorney

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1 **ARTICLE 1. GENERAL PROVISIONS**

2 **CHAPTER 10 TITLE, PURPOSE AND ORGANIZATION**

3 Sections:

- 4 10.1 Title.
- 5 10.2 Authority.
- 6 10.3 Purpose.
- 7 10.4 Organization of the Zoning Ordinance.
- 8 10.5 Official Zoning Map.
- 9 10.6 Applicability.
- 10 10.7. Minimum Standards.

11 **10.1. Title.**

12 This document shall be known as the “St. Mary’s County Comprehensive Zoning Ordinance” and may also
13 be referred to as “the Zoning Ordinance”, or “this Ordinance”.

14 **10.2. Authority.**

15 Pursuant to Article 66B of the Annotated Code of Maryland, and other statutory provisions cited in other
16 Articles of this Ordinance, the Board of County Commissioners of St. Mary’s County (hereinafter, “County
17 Commissioners”) has adopted this Zoning Ordinance.

18 **10.3. Purpose.**

19 The purposes of this Zoning Ordinance are to protect and promote the public health, safety and general
20 welfare; to implement the St. Mary’s County Comprehensive Plan; and to accomplish the County’s pursuit
21 of the vision in the Plan:

22 “Preserve and enhance the quality of life by recognizing and protecting the unique character of St.
23 Mary’s County as a rural Chesapeake Bay peninsula. Foster economic growth and create an
24 atmosphere of excellence by focusing and managing growth to create vibrant, attractive
25 communities; by protecting the rural character and economy of the countryside; by nurturing the
26 shoreline and adjacent waters; and by preserving and capitalizing on the other natural resources and
27 historical quality of the County.”

28 **10.4. Organization of the Zoning Ordinance.**

29 This Ordinance consists of nine (9) articles. Without superseding the specific regulations set forth in each
30 article, the general structure and content of the articles are as follows:

- 31 1. **Article 1: General Provisions.** The overall organization and applicability of the regulations are
32 included in this article. General rules are provided for interpretation of zoning boundaries, uses of
33 vacant land, public nuisance, conflicts with other laws and regulations, relation to deed restrictions
34 and prior regulations, construction of language, and severability.
- 35 2. **Article 2: Administration.** This article outlines detailed procedures for the administration of this
36 Ordinance, including responsibilities of decision-making bodies, common procedures that apply to
37 all development applications, notice and public hearing procedures, and requirements for (a)
38 administrative decisions; (b) appeals of administrative decisions; (c) variances; (d) conditional
39 uses; (e) site plan review; (f) transfer of development rights (“TDRs”); (g) vested rights and
40 authority to continue nonconforming projects; and (h) amendments to the Ordinance text and
41 Zoning Map, including amendments for planned unit developments (“PUDs”), (i) Development
42 Rights and Responsibilities Agreements (“DRARAs”).
- 43 3. **Article 3: Zoning Districts.** This article establishes Base Districts (ruraland residential,
44 commercial and mixed use, industrial and office, and commercial marine) and Special Districts
45 (overlay districts and floating zones) and states their purposes. It also establishes specific Zoning
46 Districts and their specific purposes, and specifies basic development standards for the Zoning
47 Districts.

- 1 4. **Article 4: Special Districts and Overlay Districts.** This article includes specific purpose
2 statements for the Critical Area, historic landmarks and districts, and air installation compatible
3 use zones overlay districts and for the planned unit development floating zone. The article also
4 establishes development standards and use regulations for the overlay districts and floating zones.
- 5 5. **Article 5: Use Regulations.** This article establishes use classifications, accessory uses, temporary
6 uses, and use regulations and standards for each zoning district. The article also establishes
7 provisions for nonconforming uses, structures and signs and “right-to-farm” provisions of this
8 Ordinance.
- 9 6. **Article 6: Development Standards and Approvals.** This article establishes standards for site
10 design, site plan review, and development design and layout including access, landscaping and
11 buffering, off-street parking and loading, and signs.
- 12 7. **Article 7: Site Development and Resource Protection Standards.** This article includes provisions
13 for adequate public facilities and standards and criteria for resource identification and protection.
14 It also establishes Critical Area standards for managing forested and agricultural lands, forest
15 conservation standards, and floodplain regulations of this Ordinance.
- 16 8. **Article 8: Enforcement.** This article provides for the prosecution of violations of this Ordinance.
- 17 9. **Article 9: Definitions and rules of Measurement.** This article includes a comprehensive list of
18 terms and their meanings as used in this Ordinance. It also provides rules of measure.

19 **10.5. Official Zoning Map.**

20 The location and boundaries of the zoning districts established by this Ordinance are indicated on the
21 Official Zoning Map, which is incorporated herein by reference. The Official Zoning Map, together with a
22 record of all amendments, are located and may be viewed at the Department of Land Use and Growth
23 Management. The Official Zoning Map shall constitute the official record of the zoning districts in the
24 unincorporated lands of St. Mary's County. A copy of the Official Zoning Map currently in effect shall
25 also be kept on file in the office of the St. Mary's County Clerk of the Circuit Court.

26 **10.6. Applicability.**

27 The provisions of this Ordinance shall apply to the development and use of all land within the
28 unincorporated areas of St. Mary's County unless expressly and specifically exempted or provided
29 otherwise in this Ordinance. No development may be undertaken without prior authorization, or exemption
30 from regulation, by this Ordinance. All regulated development shall comply with the standards, criteria,
31 and procedures of this Ordinance and any other applicable statute, law or regulation.

32 **10.7. Minimum Standards.**

33 Unless otherwise provided herein, the provisions of this Ordinance are minimum standards necessary to
34 accomplish the purposes of this Ordinance, and nothing herein is intended, nor shall it be construed to,
35 prevent any development or land use in St. Mary's County from exceeding the minimums.

1 **CHAPTER 11 RULES**

2 Sections:

- 3 11.1 Purpose.
4 11.2 General Rules.
5 11.3 Rules for Interpretation of the Boundaries on the Official Zoning Map.
6 11.4 Rules for Construction of Language.
7 11.5 Severability.

8 **11.1. Purpose.**

9 The purpose of this chapter is to establish general rules for the application of this Zoning Ordinance. The meaning
10 and construction of words and phrases defined in this chapter apply throughout this Ordinance. Definitions of
11 general terms and rules for measurement are presented in Article 9, Definitions and Rules of Measurement.

12 **11.2. General Rules.**

- 13 1. **Applicability to Roads, Streets and Rights-of-Way.** A road, street, utility easement, or other right-of-way is
14 considered to be in the same zoning district as the abutting land. Where land on one side of a public road,
15 street, utility easement, or other right-of-way is classified in a different zoning district from land on the
16 other side, the centerline of the road, street, utility easement, or other right-of-way is the zoning district
17 boundary unless otherwise depicted on the Official Zoning Map.
- 18 2. **Compliance Required.** No person, firm or entity may use, occupy, or develop land or structures, or any part
19 thereof, or authorize or permit the use, occupancy, or development of land or structures under the control of
20 such person, except in accord with all applicable provisions of this Ordinance.
- 21 3. **Lot of Record.** Every building hereafter erected, reconstructed, converted, moved, or structurally altered
22 shall be located on a lot of record, with the exception of residential additions and accessory structures.
23 There may be more than one principal building or use on a lot of record provided, however, that each such
24 principal use shall be assessed density of residential use or intensity (measured as floor area ratio or F.A.R.)
25 of non-residential use.
- 26 4. **Uses of Vacant Land.**
- 27 a. Where a lot is to be occupied for a permitted use without buildings, the yards required for such lot
28 shall be provided and maintained unless otherwise stipulated in this Ordinance, except that side
29 yards shall not be required on lots used for accessory purposes without buildings or structures or
30 on lots used for public recreation areas.
- 31 b. Accessory type uses on vacant lots may be permitted as principal structures subject to the
32 provisions of this ordinance and the zoning district in which the property is located.
- 33 5. **Conflict with Other Laws and Regulations.** Where a conflict occurs between this Ordinance and a state
34 statute or another county ordinance or regulation, the more restrictive provision shall control.
- 35 6. **Relation to Deed Restrictions and Other Private Agreements.** This Ordinance does not abrogate or annul a
36 private easement, covenant, agreement, deed restriction, recorded plat or other restrictive covenant. If,
37 however, this Ordinance imposes a greater restriction than that imposed by such easement, covenant,
38 agreement, recorded plat, deed restriction, or other restrictive covenant, this Ordinance shall control. In no
39 circumstances, however, shall the County have any obligation to enforce a restrictive covenant, easement,
40 or equitable servitude, not required as a condition of approval for any development activity or land use.
- 41 7. **Relation to Prior Regulations.** This Ordinance does not validate or legalize a land use or structure
42 established, constructed, developed or maintained in violation of a prior ordinance, county resolutions or
43 ordinances, easements, covenants, agreements, plots, deed restrictions or other restrictive covenants
44 running in favor of the County in effect prior to the effective date of this Ordinance.

45 **11.3. Rules for Interpretation of the Boundaries on the Official Zoning Map.**

46 Where uncertainty exists regarding the boundary of a zoning district on a zoning map, the following rules shall
47 apply:

- 1 1. A zoning district boundary shown as approximately following a property line shall be construed to follow
2 that property line.
- 3 2. On unsubdivided land, or where a zoning district boundary divides a lot, the location of the zoning district
4 boundary shall be determined by using the scale appearing on the Official Zoning Maps, unless the zoning
5 district boundary location is indicated by dimensions printed on the zoning map. In case of conflict
6 between printed and scaled dimensions, the printed dimension shall control.
- 7 3. A zoning district boundary shown as approximately following the right-of-way line of a highway, alley or
8 railroad or a stream, river, irrigation ditch or other identifiable boundary line shall be construed to follow
9 such right-of-way line or physical feature.
- 10 4. A zoning district boundary shown as lying within, but not contiguous to, a right-of-way line of a public
11 road, street, alley, railroad, or other identifiable boundary line shall be construed to follow the centerline of
12 the right-of-way or boundary line.
- 13 5. If uncertainty remains as to the location of a zoning district boundary or other feature shown on a zoning
14 map, the location shall be finally and conclusively determined by the Director of the St. Mary's County
15 Department of Land Use and Growth Management, whose decision shall be subject to appeal to the Board
16 of Appeals.
- 17 6. Where a property is split by a zoning boundary including special districts, the rules of the zone shall apply
18 to that portion of the land located in each district.

19 **11.4. Rules for Construction of Language.**

20 The following rules shall apply to the construction of language in this Ordinance:

- 21 1. The specific controls the general.
- 22 2. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - 23 a. "And" indicates that all connected words or provisions apply;
 - 24 b. "Or" indicates that the connected words or provisions may apply singly or in any combination;
25 and
 - 26 c. "Either or" indicates that the connected words or provisions apply singly but not in combination.
- 27 3. In case of conflict between the text and a diagram, the text controls.
- 28 4. References to departments, commissions, boards, and other offices or instrumentalities are to those of St.
29 Mary's County, unless otherwise indicated.
- 30 5. A reference to days is to calendar days unless otherwise indicated in this Ordinance or specified by state
31 law. If a deadline falls on a weekend or County holiday, the time for performing an act is extended to the
32 next working day. A working day is any day that is not a Saturday, Sunday or official County holiday.
- 33 6. In computing a period of days, the day of the act or event from which the designated period of days begins
34 to run is excluded, and the last day of the period is included, unless the last day is not a working day. If the
35 last day is not a working day, the period runs until the end of the next day which is a working day. In
36 computing a period of less than seven days, Saturdays, Sundays and County holidays are excluded.
- 37 7. Use of "shall," "will" or "must" is mandatory; "should" is directive, but not binding, and "may" is
38 permissive.
- 39 8. Use of "including," "includes," "such as," "additional," or "supplemental" is illustrative and not intended
40 as an exhaustive listing, unless the context clearly indicates the contrary.
- 41 9. Section and subsection headings contained in this Ordinance are for convenience only and do not govern,
42 limit, modify or in any manner affect the scope, meaning or intent of any provision of this Ordinance.
- 43 10. Words used in the present tense include the future, words masculine in gender shall include the feminine
44 gender and words used in the singular include the plural, and the plural, the singular, unless the context
45 clearly indicates to the contrary.

1 **11.5. Severability.**

2 If any provision, section, subsection, sentence, paragraph, clause or phase or portion of this Ordinance is adjudged
3 unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be
4 affected. If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or
5 invalid by a court of competent jurisdiction, such judgment shall not be applicable to any said structure, land or
6 water not specifically included in said judgment.

1 **ARTICLE 2. ADMINISTRATION**

2 **CHAPTER 20 AUTHORITY OF REVIEWING/DECISION MAKING BODIES AND**
3 **OFFICIALS**

4 Sections:

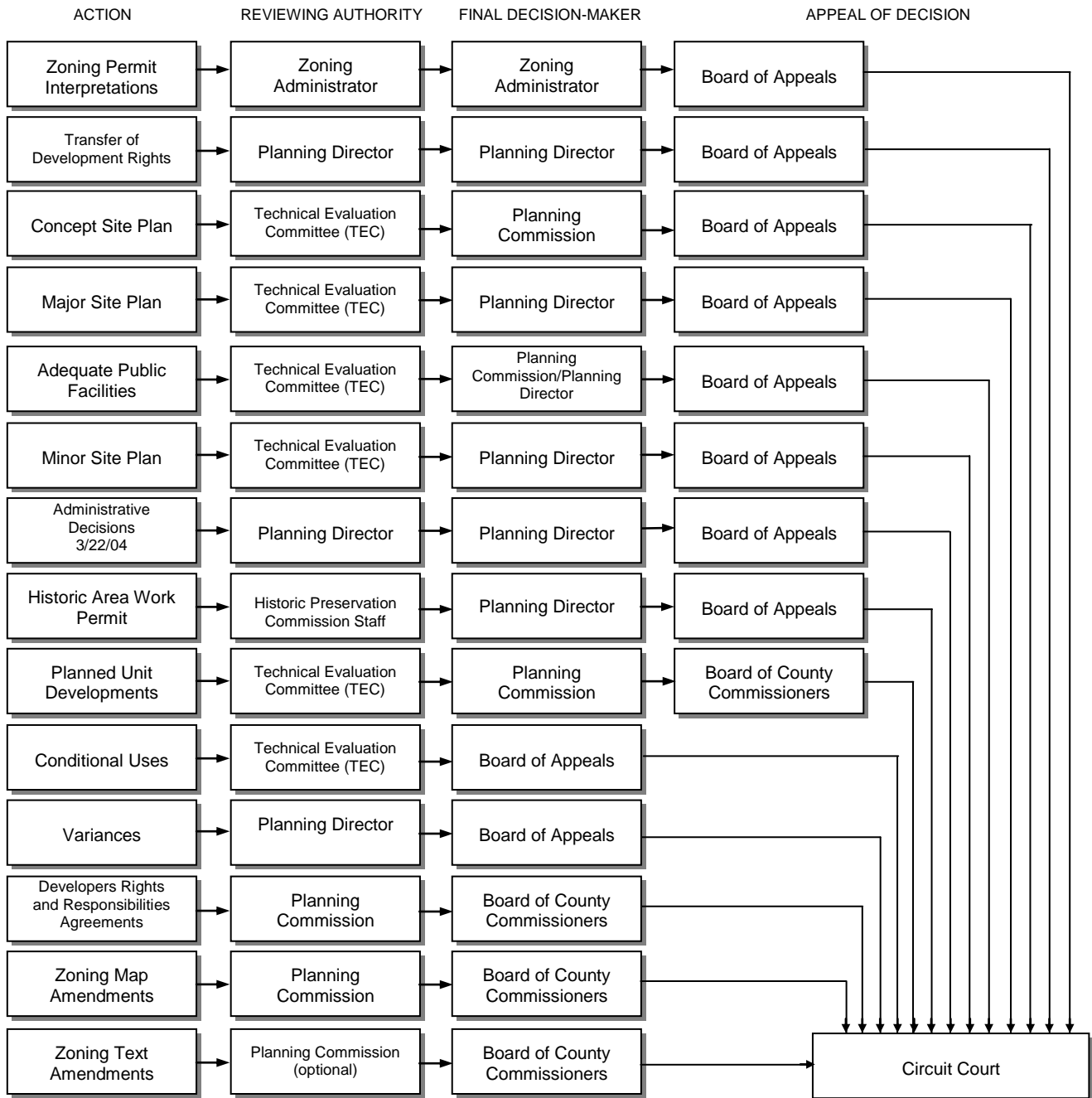
- 5 20.1 Board of County Commissioners
6 20.2 Planning Commission.
7 20.3 Board of Appeals.
8 20.4 Director of Department of Land Use and Growth Management.
9 20.5 Technical Evaluation Committee (TEC).
10 20.6 Historic Preservation Commission.

11 **20.1. Board of County Commissioners**

- 12 1. ***Powers and Duties.*** In addition to any authority granted by general or special law, the Board of
13 County Commissioners shall have the following powers and duties under the provisions of this
14 Ordinance:
- 15 a. To initiate, review, hear, consider and approve or disapprove the adoption of an ordinance
16 to amend the text of this Ordinance or the Official Zoning Maps pursuant to Chapter 28
17 of this Ordinance.
- 18 b. To review, hear, consider, and approve or disapprove the adoption of an ordinance to
19 amend the Zoning Maps to designate a floating zone pursuant to Chapter 44, Planned
20 Unit Development (PUD).
- 21 c. To review, hear, consider, and approve or disapprove the adoption of an ordinance to
22 amend the zoning Map to designate a special district (overlay or floating zone) pursuant
23 to Article 4 of this Ordinance.
- 24 d. To create a planning commission with the powers and duties set forth in Section 3.01 of
25 Article 66B of the Annotated Code of Maryland.
- 26 e. To review, hear, consider, and then approve or disapprove comprehensive revisions to the
27 Critical Area Program, applications for growth allocation, and applications for changes in
28 Critical Area overlay designations based on allegations of mistake to request approval
29 from the Chesapeake Bay Critical Area Commission for amendments or refinements to
30 the Critical Area provisions of this Ordinance.
- 31 2. ***Decision-Making Responsibilities.*** See Figure 20.1 for a summary of the Board's decision-
32 making responsibilities as they relate to Planning Commission, the Board of Appeals and the
33 Planning Director.
34

1 **Figure 20.1:**
 2
 3
 4
 5
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 7

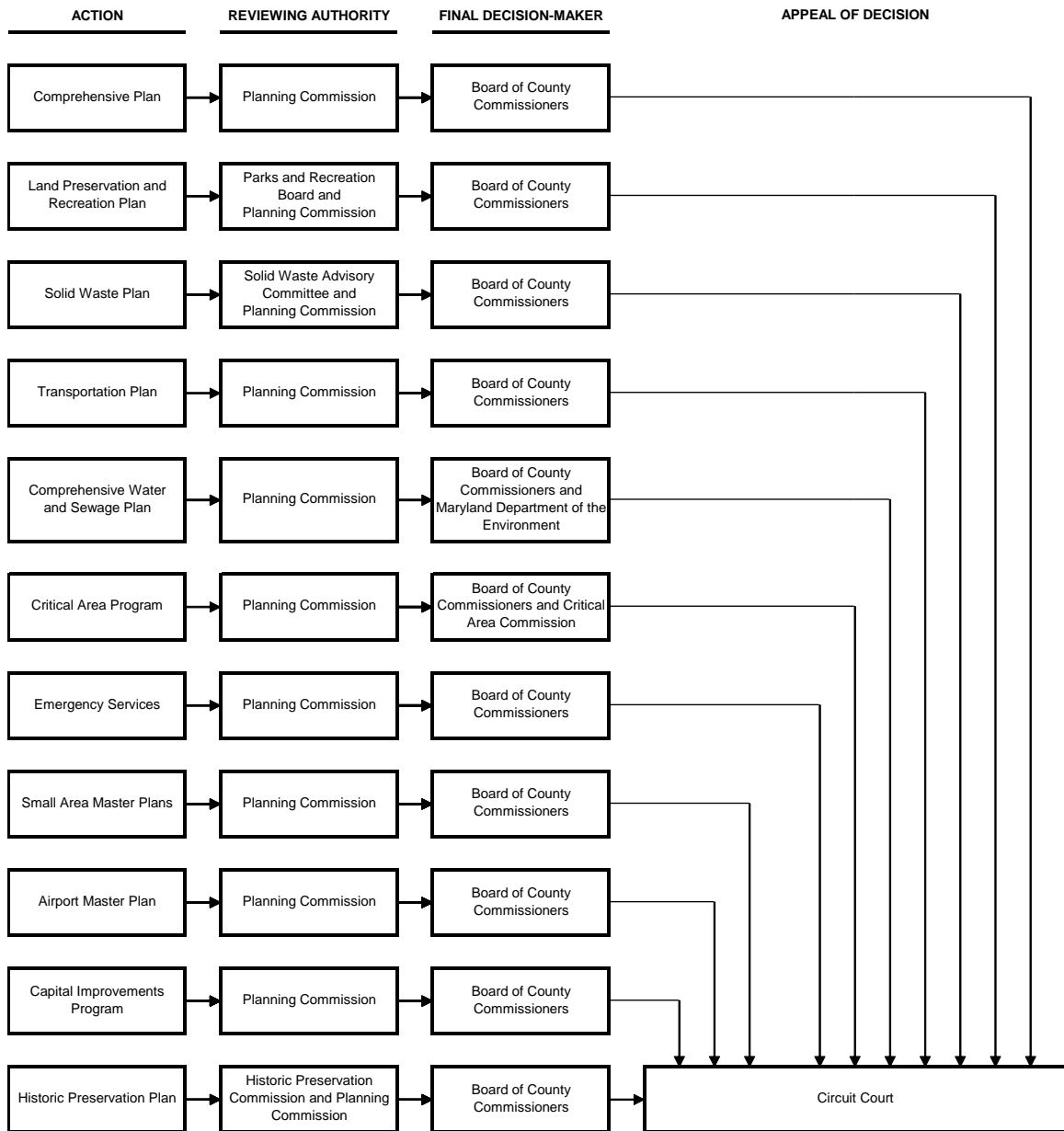
Decision Making Responsibilities Under this Ordinance



This diagram is intended as a guide only. It is necessary to consult the text of this Ordinance for specific procedures and regulations pertaining to the decision-making process and responsibilities, and for the method of filing and perfecting appeals of decisions made pursuant to this Ordinance.

1 **Figure 20.1.a:**

Responsibilities for Functional Plans



As part of the review for a development proposal, the reviewing authority must verify that the proposal is consistent with the Comprehensive Plan and applicable functional or area subplans that are incorporated into the Comprehensive Plan by reference. If a development proposal is determined to be inconsistent with County adopted plans, a request for amendment of a functional plan may be processed concurrently with the request for approval of the development proposal. However, no decision for approval of the proposal shall be made unless the functional or area plan is amended in a manner that provides consistency between the proposal and the applicable plan. This diagram is intended as a guide to identify the entities responsible for adopting and amending these Plans.

2
3

1 **20.2. Planning Commission.**

- 2 1. **Establishment.** The St. Mary's County Planning Commission is hereby established pursuant to
3 Section 3.01 of Article 66B of the Annotated Code of Maryland.
- 4 2. **Commission Membership.** The Commission shall consist of seven members appointed by the
5 County Commissioners.
- 6 3. **Terms of Office, Successors, Removal.** Each member of the Commission shall serve for no more
7 than two consecutive five-year terms, exclusive of any portion of an unexpired term served to fill a
8 vacancy. These five-year terms shall be on a staggered basis. Vacancies in unexpired terms shall
9 be filled by the County Commissioners. Members may be removed upon written charges and after
10 public hearing by the County Commissioners for inefficiency, neglect of duty, or malfeasance in
11 office.
- 12 4. **Powers and Duties.** The Commission shall have the following powers and duties:
- 13 a. To make, and recommend to the County Commissioners for adoption, a comprehensive
14 plan for the County.
- 15 b. To initiate, review, hear, consider, and make recommendations to the County
16 Commissioners for approval or disapproval of the adoption of an ordinance to amend the
17 Zoning Maps pursuant to Chapter 28 or Chapter 29, Development Rights and
18 Responsibilities Agreement.
- 19 c. To review, hear, consider, and make recommendations to the County Commissioners to
20 approve or disapprove the adoption of an ordinance to amend the text of this Ordinance at
21 the request of the Board of County Commissioners.
- 22 d. To initiate, review, hear, consider, and make recommendations to the County
23 Commissioners to approve or disapprove the adoption of an ordinance to amend the
24 Zoning Maps to designate a Special District (Overlay or Floating Zone) pursuant to
25 Article 4 of this Ordinance.
- 26 e. To review, hear, consider, and recommend to the Board of County Commissioners
27 comprehensive revisions to the Critical Area Program on the grounds of mistake, and to
28 make recommendations regarding applications for growth allocation and changes in
29 Critical Area overlay designation.
- 30 f. To report annually to the Board of County Commissioners on development and planning
31 activities and Comprehensive Plan implementation.
- 32 g. Within six (6) months after appointment to the Planning Commission and once a year
33 thereafter, a member shall complete an education course as prescribed in article 66B, §
34 3.02.
- 35 5. **Meeting and Rules.** The Commission shall meet at least once a month. One such meeting shall
36 be a regular meeting that shall be selected and published annually prior to the first regular meeting
37 schedules in January. Additional meetings may be scheduled at the call of the Chairman at such
38 times as the Commission may determine. All meetings shall be open to the public. Any person
39 may appear and testify at a public hearing either in person or be represented by duly authorized
40 agent or attorney. The Commission may request testimony at its hearings for purposes of securing
41 technical and/or factual evidence from experts or any county agency or office. The Commission
42 shall keep minutes of its proceedings, showing the vote of each member upon each question, or if
43 absent or failing to vote, shall indicate such fact.

44 **20.3. Board of Appeals.**

- 45 1. **Establishment.** The Board of Appeals for St. Mary's County is hereby established and designated
46 the "Board of Appeals" pursuant to Section 4.07 of Article 66B of the Annotated Code of
47 Maryland.

-
- 1 2. **Board Membership.** The Board shall consist of five members appointed by the County
2 Commissioners.
- 3 3. **Term of Office, Successors, Removal.** Members of the Board of Appeals shall serve no more than
4 two consecutive three-year staggered terms. Vacancies in unexpired terms shall be filled by the
5 County Commissioners for unexpired terms. Members may be removed by the County
6 Commissioners upon written charges and after public hearing by the County Commissioners for
7 inefficiency, neglect of duty, or malfeasance in office. The County Commissioners shall designate
8 one alternate member who may be empowered to sit in the absence of any member.
- 9 4. **Powers and Duties.** The Board shall have the following powers and duties:
- 10 a. To hear and decide appeals when it is alleged there is an error in any order, requirement,
11 decision, or determination made in regard to the enforcement of this Ordinance or of any
12 amendments adopted pursuant thereto.
- 13 b. To authorize, upon appeal in specific cases, a variance from the terms of this Ordinance
14 as will not be contrary to the public interest, and when, owing to special conditions, the
15 enforcement of the provisions of this Ordinance will result in practical difficulties or
16 unwarranted hardship. Only those variances shall be allowed that accomplish the
17 purpose and intent of the regulations of this Ordinance and are consistent with the
18 Comprehensive Plan.
- 19 c. To adopt and promulgate such rules and regulations as it shall deem necessary in the
20 conduct of its hearings.
- 21 d. To hear and act upon conditional use applications as provided for in Chapter 25.
- 22 5. **Meeting and Rules.** All meetings of the Board of Appeals shall be held at the call of the
23 Chairperson, and at such other times as the Board may determine. All hearings conducted by the
24 Board shall be open to the public. Any person may appear and testify at a hearing either in person
25 or be represented by a duly authorized agent or attorney. The Chairperson, or in his absence the
26 Vice-Chairperson, may administer oaths and compel attendance of witnesses. If the Chairperson
27 and Vice-Chairperson are absent from a scheduled meeting, members constituting a quorum shall
28 designate a member as Acting Chairperson. The Board may request testimony at its hearings for
29 purposes of securing technical and/or factual evidence from experts or any county agency or
30 office. The Board may require a report and recommendation from the Planning Commission on
31 variances and conditional uses, and the Planning Commission shall file said report within 30 days
32 of the request by the Board. The Board shall keep minutes of its proceedings, showing the vote of
33 each member upon each question and indicating if a member is, absent or fails to vote. All final
34 decisions shall be rendered by written order.
- 35 6. **Decision of Board of Appeals.** In exercising its powers, the Board of Appeals may, in conformity
36 with the provisions of this Ordinance:
- 37 a. Wholly or partly reverse the order, requirement, decision, or determination from which
38 the appeal is taken;
- 39 b. Wholly or partly affirm the order, requirement, decision, or determination from which the
40 appeal is taken;
- 41 c. Modify the order, requirement, decision, or determination from which the appeal is taken;
42 or
- 43 d. Issue a new order, requirement, decision, or determination. The Board of Appeals shall
44 have all the powers of the administrative officer from whom the appeal is taken.
- 45 7. **Finality of Decisions of the Board of Appeals.**
- 46 a. All decisions and findings of the Board of Appeals on appeals or on applications for a
47 standard variance or conditional use shall be final administrative decisions and shall be
48 subject to judicial review as prescribed in Section 4.08 of Article 66B of the Annotated

Code of Maryland. All final decisions shall be rendered in writing within 60 days of the close of the public hearing.

- b. All decisions and findings of the Board of Appeals within the jurisdiction of the Critical Area Commission shall be final administrative decisions and shall be subject to judicial review as prescribed in Section 4.08 of Article 66B of the Annotated Code of Maryland. All final decisions shall be rendered in writing within 30 days of the close of the public hearing. The Board of Appeals may extend the 30 days up to a maximum of 45 days upon findings that the complexity of the case requires an extended decision period or that changes in the Board's schedule preclude a decision within 30 days.

20.4. Director of Department of Land Use and Growth Management.

This Ordinance shall be administered and enforced by the Director of the St. Mary's County Department of Land Use and Growth Management (the "Planning Director"), who shall be appointed by the County Commissioners.

1. **Powers and Duties.** The Planning Director shall have the following powers and duties:

- a. To administer and enforce the provisions of this Ordinance, including right of entry onto private property.
- b. To approve or disapprove applications for a variance from dimensional requirements pursuant to Section 22.5, Administrative Variances.
- c. To approve, approve with conditions or disapprove applications for major or minor site plan approval pursuant to Chapter 60.
- d. To determine, with input from other agencies, the adequacy of public facilities (APF) affected by applications for major and minor site plan approval and minor subdivision approval.
- e. To provide expertise and technical assistance to the Board of County Commissioners, Planning Commission, Board of Appeals, or Historic Preservation Commission upon request.
- f. To establish application requirements and schedules for review of applications and appeals, to formulate and promulgate rules and procedures, and to take any other actions necessary to implement and enforce the provisions of this Ordinance.
- g. To make zoning authorizations upon demonstration of an application's compliance with this Ordinance.
- h. To approve or disapprove Transferable Development Rights (TDRs) certificate(s) and agreements.
- i. To ensure that the Department of Land Use and Growth Management will conduct and manage various planning studies, accept and process applications, collect and file applicant data, and maintain files. Coordinate input from other agencies, assure that cooperating agencies have conducted their normal reviews and provide recommendations to the Planning Commission and the Board of County Commissioners on various planning issues and development applications.
- j. To confirm that any application for a building permit includes all required approvals from all appropriate agencies before the permit is issued.
- k. To issue building permits and certificates of use and occupancy and maintain files and a filing system for both.
- l. To ensure that all applicable requirements have been met before a certificate of use and occupancy is issued.
- m. To ensure that all construction complies with the currently adopted building, electrical, plumbing, livability, energy, zoning, stormwater management, and other applicable codes.

- 1 2. **Specific Enforcement Responsibilities.** The Planning Director shall have all necessary authority
2 on behalf of the Board of County Commissioners to enforce the provisions of this Ordinance,
3 including remedying any condition found to be in violation of this Ordinance by bringing
4 appropriate legal action or proceedings to gain compliance with the Ordinance. The Planning
5 Director shall be guided in all actions pursuant to this Ordinance by the purposes, intent, and
6 standards set forth in the respective articles of the Ordinance.
- 7 a. **Enforcement of Planning Commission and Board of Appeals Decisions.** It shall be the
8 duty of the Planning Director to assure compliance with the decisions of the Planning
9 Commission and the Board of Appeals.
- 10 b. **Enforcement of Planned Unit Developments (PUD) and Development Rights and**
11 **Responsibilities Agreements (DRARA).** In instances where planned unit developments or
12 development rights and responsibilities agreements, as allowed by the provisions of this
13 Ordinance, are authorized by the County Commissioners, it shall be the duty of the
14 Planning Director to ensure compliance with the terms, standards and other conditions
15 upon which the PUD or DRARA is authorized.
- 16 c. **Enforcement of Minimum Requirements.** In enforcing the minimum requirements and
17 standards of this Ordinance and assuring compliance with decisions of the Board of
18 Appeals, Planning Commission or Board of County Commissioners and conditions
19 imposed by these bodies on planned developments, the Planning Director shall have the
20 authority to:
- 21 (1) Investigate inquiries and complaints relating to building and land use activities
22 and to take action when appropriate; and
- 23 (2) Issue civil citations and penalties, as may be prescribed by resolution of the
24 Board of County Commissioners, against any person, firm, or corporation that
25 shall violate this Ordinance; and
- 26 (3) Post stop work orders on any lot, parcel, site, structure, or property that is in
27 violation of any section of this Ordinance. The Planning Director may require
28 that all work and activity shall immediately cease on the designated premises,
29 and may remove and suspend the zoning permit issued for the project until the
30 violation is rectified. A fine may be levied against any person, firm, or
31 corporation that shall violate the stop work order.
- 32 3. **Records of the Planning Director.** The Planning Director shall keep records of all zoning maps,
33 amendments, conditional uses, variances, appeals, planned unit developments, site plans,
34 transferable development rights (TDRs), development rights and responsibilities agreements and
35 decisions of the Planning Commission, Board of Appeals and Historic Preservation Commission.

36 **20.5. Technical Evaluation Committee (TEC).**

37 The Technical Evaluation Committee (TEC) is hereby established and shall consist of a designated
38 representative from the St. Mary's County Department of Land Use and Growth Management, the State
39 Highway Administration, the St. Mary's Soil Conservation Service, St. Mary's Health Department, the St.
40 Mary's Metropolitan Commission and the St. Mary's County Department of Public Works and
41 Transportation, and from other state and county departments and agencies as designated by the Board of
42 County Commissioners. A citizen appointed by the Board of County Commissioners shall serve on the
43 TEC as well. For purposes of reviewing development in the Critical Area, the TEC shall also include the
44 County's environmental planner. The Planning Director shall serve as the chair of the TEC. The TEC shall
45 be responsible for advising the Planning Director in the administrative review of site plans, conditional
46 uses, planned developments, zoning amendments and subdivision applications, and any other application
47 for a proposed activity requiring approval pursuant to this Ordinance.

48 **20.6. Historic Preservation Commission.**

- 49 1. **Established.** The Historic Preservation Commission (HPC) is established by the Board of County
50 Commissioners as set forth in the Maryland Local Public Laws, Article 19 (St. Mary's County).

1 **CHAPTER 21 GENERAL APPLICATION AND PUBLIC HEARING PROCEDURES**

2 Sections:

- 3 21.1 General Application Procedures.
- 4 21.2 Actions Requiring Public Hearings.
- 5 21.3 Public Hearing Notice Requirements.
- 6 21.4 Public Hearing Procedures.

7 **21.1. General Application Procedures.**

8 All applications that the provisions of this Ordinance require to be reviewed by the Technical Evaluation
9 Committee shall be processed in accordance with the following procedures:

- 10 1. **Determination of Completeness of Application.** Applications for development approvals shall be
11 submitted on the appropriate form designated by the Planning Director. After receipt of an
12 application, the Planning Director shall determine whether the application is complete. The time
13 period allowed for review of an application shall not begin until the application is determined to be
14 complete. If the application is not complete, the Planning Director shall notify the applicant in
15 writing within three days, specifying the deficiencies of the application and the additional
16 information that must be supplied and advising the applicant that the County will take no further
17 action on the application until the deficiencies have been corrected.
- 18 2. **Remedy of Deficiencies.** If the applicant fails to correct the specified deficiencies by the end of the
19 business day following the notification of deficiency, the application for development approval
20 shall be deemed withdrawn and will be returned to the applicant with any fees that have been paid.
- 21 3. **Extensions of Time.**
 - 22 a. Upon written request, the Planning Director may, for good cause shown and without any
23 notice or hearing, grant extensions of any time limit imposed on an applicant by this
24 Ordinance. An extension of time may also be granted by any body acting pursuant to this
25 Ordinance unless the Ordinance expressly provides otherwise.
 - 26 b. No permit, variance or approval in effect as of January 1, 2013 shall expire prior to
27 May 4, 2017, unless required by a statute, rule or regulation of the State of Maryland.
- 28 4. **Fees.** The application shall be accompanied by all required fees. The applicant shall also be
29 responsible for payment of all expenses incurred to provide any public notice required by Section
30 21.3. Application fees and refund policy shall be as established by resolution of the Board of
31 County Commissioners.
- 32 5. **General Development Review Process.** Figures 21.1.a and 21.1.b summarizes the general
33 development review process under this Ordinance, which is described in detail in the following
34 parts of this chapter.

35 **21.2. Actions Requiring Public Hearings.**

- 36 1. **Conditional Uses, Variances and Appeals of Administrative Decisions.** The Board of Appeals
37 shall hold at least one public hearing to review, consider, and approve, approve with conditions, or
38 deny each application for a conditional use, or a variance, or to consider an appeal from any
39 administrative decision made pursuant to this Ordinance. Such hearing shall be held after public
40 notification pursuant to Section 21.3.
- 41 2. **Amendments to the Zoning Maps or the Text of this Ordinance.**
 - 42 a. **Zoning Maps.** The Planning Commission and the Board of County Commissioners shall
43 each hold at least one public hearing on an application for an amendment to the Official
44 Zoning Maps. Such hearing may be held jointly at the discretion of the Planning
45 Commission and the Board of County Commissioners.
 - 46 b. **Text.** The Board of County Commissioners shall hold at least one public hearing on an
47 application for an amendment to the text of this Ordinance. The Board of County

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Commissioners may request a recommendation from the Planning Commission regarding any text amendment to this Ordinance. If requested to form a recommendation, the Planning Commission shall conduct at least one public hearing.

3. **Amendment to Comprehensive Area or Functional Plans.** For any application pursuant to this Ordinance that requires a comprehensive or functional plan amendment, the Planning Commission and the Board of County Commissioners shall each hold at least one public hearing. Such hearing may be held jointly at the discretion of the Planning Commission and the Board of County Commissioners.

21.3. Public Hearing Notice Requirements.

Providing all the information necessary for notice of all public hearings required under this Ordinance shall be the responsibility of the applicant. The applicant shall supply the information in the form established by the Planning Director, and the information is subject to the approval of the Planning Director pursuant to the standards and requirements of this section.

1. **Publication.** At least 15 calendar days in advance of the public hearing on an application for any development approval, Ordinance amendments or appeal listed in Section 21.2, the Department of Land Use and Growth Management shall give notice of such public hearing. Notice shall be published in a newspaper of general circulation in St. Mary's County once each week for two successive weeks.
2. **Mailing.** At least 15 calendar days before the public hearing on an application for any development approval, Ordinance amendment, or appeal listed in Section 21.2, the applicant shall send notice by registered or certified mail in a format provided by the County to all owners of contiguous property (as shown on the latest published property tax records of the Maryland Department of Assessment and Taxation), including lands across any public or private rights-of-way adjacent to the land subject to the application. Notice shall be given to each individual property owner if an affected property is held in common ownership. Required notice shall also be given to a municipality if the application concerns land adjacent to its municipal boundaries. The applicant shall provide the Planning Director, in an approved form, with names and addresses of all property owners required to receive notice of a public hearing pursuant to this Ordinance.
 - a. **Contents of Notice for Mailing.** The notice for any public hearing or meeting to be mailed required by this section shall state the substance of the application and the date, time, and place of the public hearing or meeting, and the place where such application may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing or meeting and be heard with respect to the application.
3. **Requirements for Posting Notice.** At least 15 calendar days in advance of the public hearing, the property(ies) subject to an application for development approval or for an amendment to a zoning map listed in Section 21.2 shall be posted by the applicant with a notice on a block printed sign at least 24inches x 36inches. The applicant shall notify the Department of Land Use and Growth Management the same day notice is posted.
 - a. **Content.** Posted notice shall contain the following information:
 - (1) Application number and property owner name.
 - (2) Request (as defined by the Department of Land Use and Growth Management).
 - (3) Date, time, and location of the hearing.
 - (4) A statement that the file is available during normal business hours at the Department of Land Use and Growth Management for public review and comment.
 - b. **Location.** One notice shall be posted for each 500 feet of frontage along a public street. The sign(s) shall be located on the property no more than 25 feet from the front property line and shall be clearly visible from the nearest public road or street. Where the land does not have frontage on a public street, signs shall be posted within the nearest street

- 1 right-of-way with an attached notation indicating generally the direction and distance to
2 the land that is the subject of the application.
- 3 c. Removal. The applicant shall remove the sign after the hearing on the application has
4 concluded. If the sign is removed before the hearing such removal may be considered a
5 defect in notice and prevent the Board of Appeals from hearing the case. The entity
6 responsible for posting the sign shall be responsible, within 24 hours of notification that
7 the sign has been removed, for ensuring that it stays posted until the hearing date. In the
8 case of an appeal, the county department that is the subject of the appeal shall be required
9 to maintain the public notice sign and replace it should one be removed.
- 10 d. Exemption. This posting requirement shall not apply during comprehensive rezoning of
11 the County.

12 **21.4. Public Hearing Procedures.**

13 A public hearing held pursuant to the provisions of this Ordinance shall comply with the following
14 procedures:

- 15 1. ***Scheduling the Public Hearing.*** When an application requires a public hearing, the hearing shall
16 be scheduled to occur within a reasonable time, allowing for the complexity of the case, available
17 staff resources, and public notice requirements.
- 18 2. ***Conduct of Public Hearing.***
- 19 a. ***Rights of All Persons.*** Any person may appear at a public hearing and submit evidence
20 orally or in writing, either individually or upon written authorization as a representative
21 of a person or an organization. Each person who gives testimony at a public hearing may
22 be duly sworn, shall be identified as to name and address, and, if appearing on behalf of a
23 person or an organization, shall state the name and mailing address of the person or
24 organization being represented.
- 25 b. ***Exclusion of Testimony.*** The body conducting the public hearing may exclude testimony
26 or evidence that it finds to be irrelevant, immaterial, unduly repetitious, or otherwise
27 inadmissible.
- 28 c. ***Ruling on Objections.*** The body or official conducting the hearing shall rule on all
29 objections made during the hearing.
- 30 d. ***Continuance of Public Hearing.*** The body or official conducting the public hearing may,
31 upon the body's or official's own motion, continue the public hearing or meeting to a
32 fixed date, time, and place without additional notification. Two-thirds of the voting
33 members present at the hearing or meeting at which a quorum is present shall be required
34 for a continuance. An applicant may request and be granted a continuance at the
35 discretion of the body or official conducting the public hearing only upon good cause
36 shown.
- 37 3. ***Record of Public Hearing or Meeting.***
- 38 a. **Recording of Public Hearing or Meeting.** Except where required otherwise by statute, the
39 body or official conducting the public hearing or meeting shall record the public hearing
40 or meeting by any appropriate means. A copy of the public hearing or meeting record
41 may be acquired upon request to the Planning Director and payment of a fee to cover the
42 cost of duplication of the record.
- 43 b. **The Record.** The minutes; tape recordings; all applications, exhibits, papers and reports
44 submitted in any proceeding before the decision-making body or official; and the
45 decision of the decision-making body or official shall constitute the record.
- 46 c. **Location of Record and Inspection.** All records of decision-making bodies or officials
47 shall be public records, open for inspection at the offices of the decision-making body or
48 official during normal business hours and upon request.

1 d. Examination and Copying of Application and Other Documents. Upon request, and
2 during normal business hours, any person may examine an application and materials
3 submitted in support of or in opposition to an application in the appropriate county office.
4 Copies of such materials shall be made available at reasonable cost, subject to copyright
5 laws.

6 4. **General Procedures for Findings and Decisions.**

7 a. General. Action shall be taken in compliance with any time limits established in this
8 Ordinance and as promptly as possible in consideration of the interests of the citizens of
9 St. Mary's County and the applicant, and shall include a clear statement of approval,
10 approval with conditions, or disapproval.

11 b. Findings. Except for those of the Board of County Commissioners, whose decisions shall
12 be made by motion, ordinance, or resolution, as appropriate, all decisions made following
13 a public hearing shall be in writing and shall include at least the following elements:

- 14 (1) A summary of the information presented before the decision-making body or
15 official;
- 16 (2) A summary of all documentary evidence submitted to the decision-making body
17 or official and which the decision making body or official considered in making
18 the decision;
- 19 (3) A statement of the policies of the Comprehensive Plan and the general purposes
20 of this Ordinance that are relevant to the findings, the specific purpose of the
21 zoning district where the use or structure is or would be located, and the
22 standards as required by this Ordinance;
- 23 (4) A statement of specific findings of fact or other factors considered, as
24 appropriate, with specific reference to the relevant standards set forth in this
25 Ordinance; and
- 26 (5) A statement of approval, approval with conditions, or disapproval.

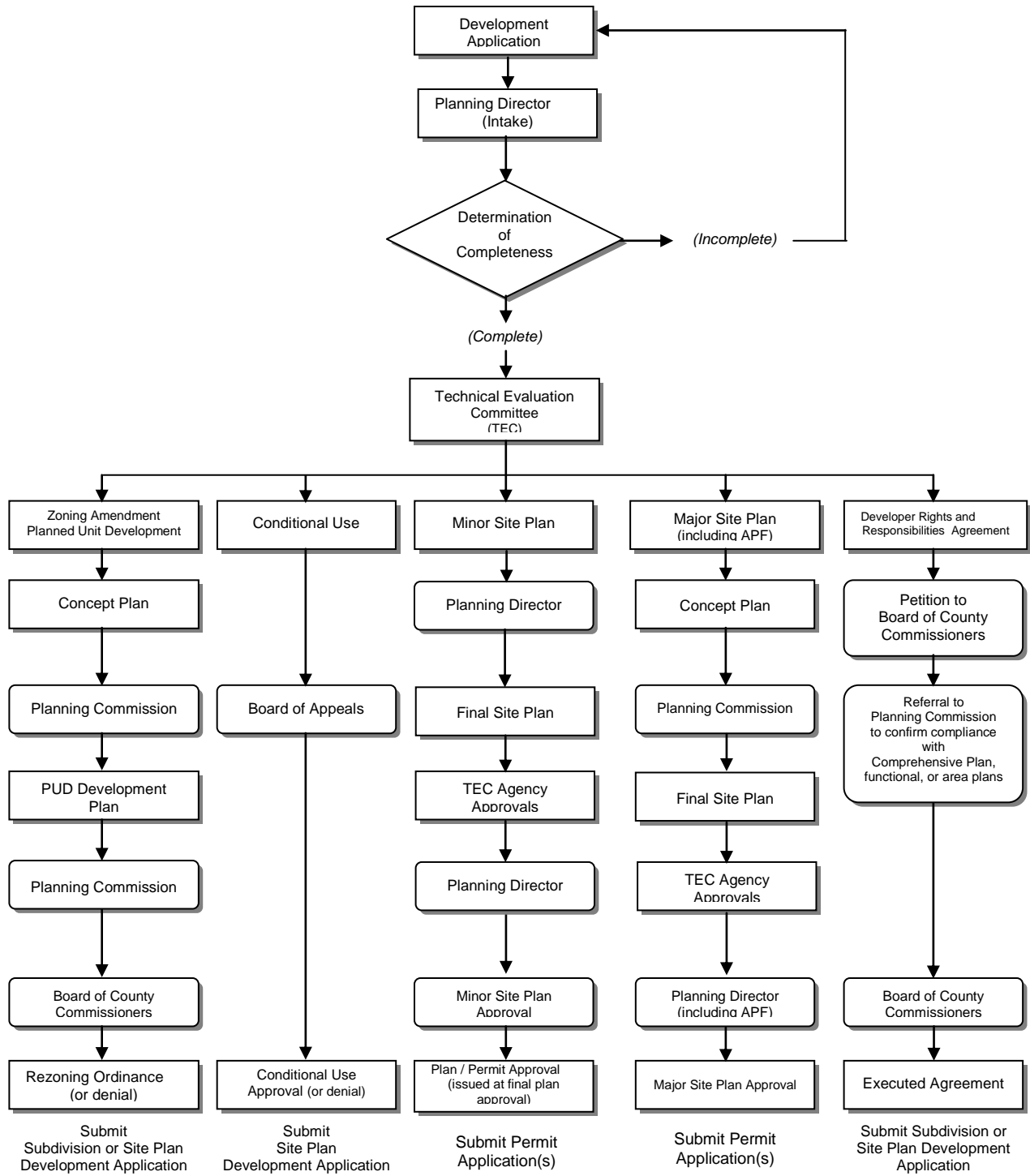
27 c. *County Attorney Signature.* Before any decision shall become final, the County Attorney
28 shall approve the decision as to form and legal sufficiency.

29 5. *Notification.* A letter notifying the applicant of the decision of the decision-making body or
30 official shall be sent by first-class mail, postage prepaid, within 10 days of the decision. A copy of
31 the decision shall also be made available to the applicant at the offices of the decision-making
32 body or official during normal business hours, within a reasonable period of time after the
33 decision has been rendered.
34

1 **Figure 21.1.a**

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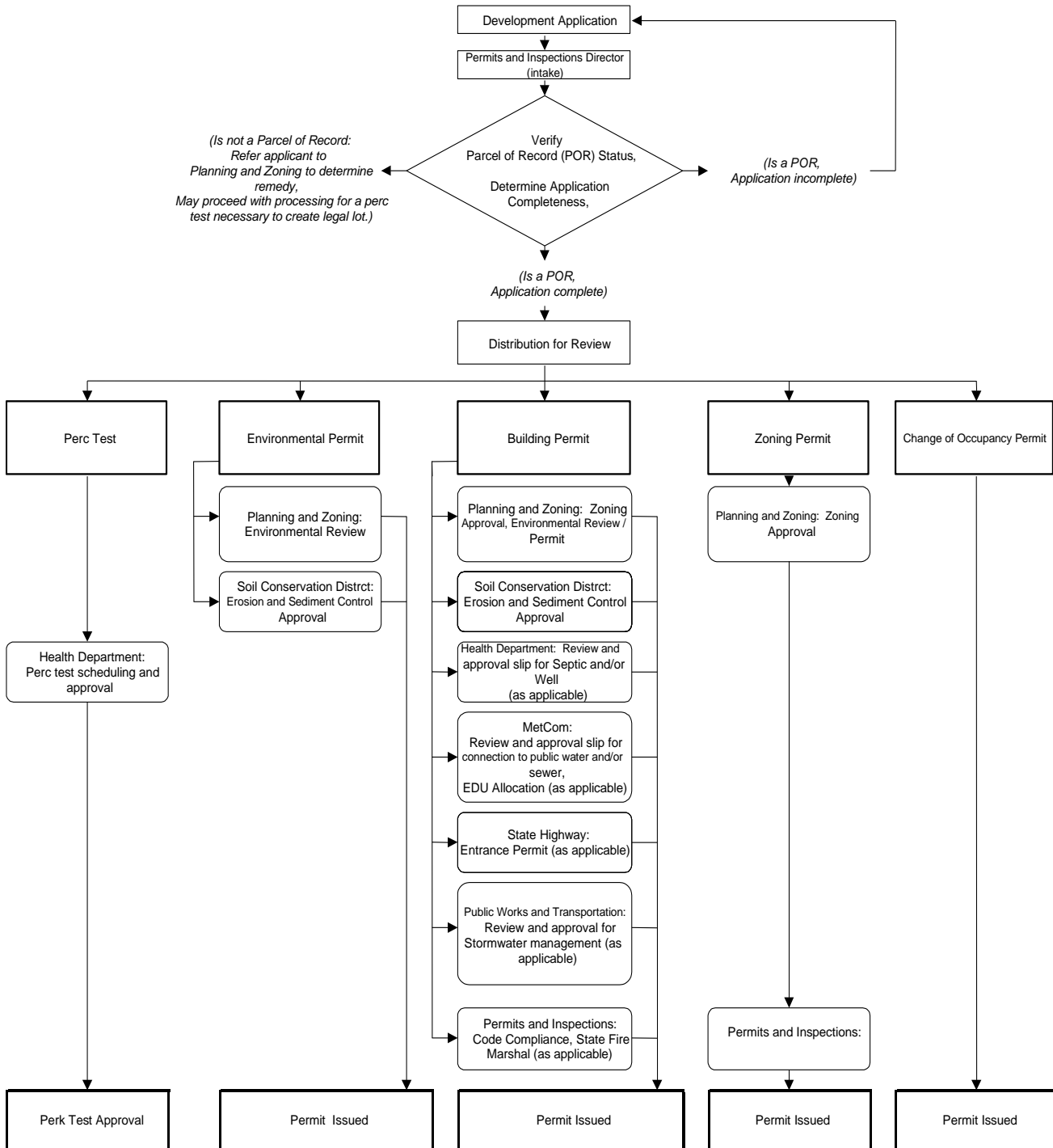
Development Review Process for Multifamily or Non-Residential Development



1 **Figure 21.1.b**

2
 3

Development Review Process for development and activities on existing parcels or lots.



1 **CHAPTER 22 ADMINISTRATIVE DECISIONS**

2 Sections:

- 3 22.1 Zoning and Environmental Permits.
4 22.2 Conflict with Other Permits.
5 22.3 Forms, Information, and Specifications Required.
6 22.4 Time Limits for Zoning Permits.
7 22.5 Administrative Variances.
8 22.6 Building Permits.
9 22.7 Certificate of Occupancy.
10 22.8 Schedule of Fees, Fines, and Penalties.

11 **22.1. Zoning and Environmental Permits.**

- 12 1. **Zoning Permit Required.** No building, structure, or land, or any part thereof, shall hereafter be
13 used, created, or enlarged until a zoning permit has been issued by the Planning Director. The
14 issuance of a zoning permit does not waive provisions of other laws, ordinances, or requirements.
- 15 2. **Certificate for Other Permits.** If the proposed building, structure, or land use conforms with the
16 provisions of this Ordinance or with the decisions of the Board of Appeals, the Planning
17 Commission and the County Commissioners, a zoning permit shall be issued by the Planning
18 Director. The issuance of a zoning permit shall serve as authorization to secure other required or
19 requested permits from various agencies.
- 20 3. **Environmental Permits.** No building, structure, or land or any part thereof shall be used, created,
21 enlarged or subdivided until an environmental permit is issued if required pursuant to Chapter 71,
22 Resource Protection Standards of this Ordinance.

23 **22.2. Conflict with Other Permits.**

24 Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by any
25 cooperating agency, department, or employee unless a zoning permit has been issued by the Planning
26 Director. The provisions of the zoning permit shall supersede any other permits issued in conjunction with
27 or subsequent to it, except when the provisions of another permit(s) is (are) more stringent, where upon the
28 more stringent regulation shall apply. Any permit issued in conflict with the provisions of this Ordinance
29 shall be null and void.

30 **22.3. Forms, Information, and Specifications Required.**

31 An application for a building or zoning permit shall be made to the Planning Director on forms provided
32 for that purpose. The Planning Director shall require and be furnished with all plans and documents as may
33 be required to determine compliance with the provisions of this Ordinance and decisions of the Board of
34 Appeals, the Planning Commission and the Board of County Commissioners. Applications for building or
35 zoning permits shall be accompanied by the following items, or as many thereof as the Planning Director
36 deems pertinent, and such additional information as the Planning Director may require to determine
37 compliance with the provisions of this Ordinance and decisions of the Board of Appeals, the Planning
38 Commission, and the Board of County Commissioners.

- 39 1. Certificate from the Health Department that the proposed location meets the requirements for
40 water supply and sewage disposal; or, if a public water and/or sewerage system is involved, a
41 certificate from the Metropolitan Commission that applicable regulations and requirements have
42 been met.
- 43 2. Confirmation by the Health Department that all percolation test holes have been refilled
44 completely upon completion of tests.
- 45 3. If the permit involves improvement of subdivided land or land not included on a site plan, an
46 approved recorded subdivision plat or approved site plan.

-
- 1 4. If the land is not required to be shown on an approved subdivision plat or site plan, a plot plan
2 drawn to scale and signed by the applicant or authorized agent, showing:
- 3 a. The intended use, including height and size of structures to be built thereon, off-street
4 parking, and other facilities and signs;
- 5 b. Size and dimensions of the lot;
- 6 c. Location of the intended use in relation to property lines, public highways, and other
7 buildings or structures; and
- 8 d. Tax map-grid-parcel-lot numbers.

9 **22.4. Time Limits for Zoning Permits.**

10 Any zoning permit issued shall become invalid if the authorized use or construction for which the permit
11 was issued is not commenced within 12 months of the date of issuance, or is suspended or abandoned for a
12 period of 12 months. Prior to the expiration of a zoning permit, the Planning Director may, upon good
13 cause shown, extend a permit without additional charge for an additional period not exceeding 12 months.

14 **22.5. Administrative Variances.**

- 15 1. An applicant seeking a variance may request the same directly of the Board of Appeals, pursuant
16 to Chapter 24, without first applying to the Planning Director. The criteria governing the lapse of
17 an administrative variance shall be the same as those governing the Board of Appeals pursuant to
18 Section 24.8 of this Ordinance.
- 19 2. **Purpose.** The purpose of Administrative Variances is to delegate to the Planning Director
20 approval authority to apply the standards for variance for proposed construction activities
21 requesting relaxation of:
- 22 a. The minimum lot dimensions or minimum setback standards of Schedule 32.1 of this
23 Ordinance or the elevation requirement for substantially renovated historic structures
24 located in the 100-year floodplain.
- 25 b. Critical Area standards for impervious surface cover, buffer encroachment, or disturbance
26 of steep slopes.
- 27 c. The provision of Chapter 75, Forest Conservation.
- 28 3. **Variance from Dimensional Requirements.**
- 29 a. **Application.** A person may apply to the Planning Director for a variance from the
30 dimensional requirements specified in this Ordinance. An administrative variance may
31 not reduce specified dimensional requirements by more than 50 percent. The application
32 shall be made on a form and in a manner prescribed by the Planning Director.
- 33 b. **Procedure.** The Planning Director shall conduct a public hearing on the application for
34 the variance. The hearing shall be open to the public, and anyone in attendance shall
35 have an opportunity to be heard concerning the application. Prior to the hearing, the
36 applicant shall provide notice in the manner provided in this Section 21.3 of the
37 Ordinance. If an agreement is executed with the owners of all properties that abut a side
38 or rear property line of the property that is the subject of an application, and such
39 agreement(s) is/are submitted to the Planning Director, then no public hearing is required.
- 40 c. **Decision.** Within 15 days of the close of the hearing, the Planning Director shall decide
41 the issue raised by the application. The decision shall be in writing and provide a brief
42 explanation of the law, the standards for variance, and facts that support the decision. In
43 making the decision, the Planning Director may grant the variance only in cases where
44 strict compliance with the terms of the Ordinance would result in practical difficulties
45 that have not been caused by act of the applicant or the applicant's predecessors in title.
46 The Planning Director shall not grant a variance if to do so would violate the spirit and
47 intent of this Ordinance, the Comprehensive Plan, or functional or area plans, or cause or
48 be likely to cause substantial injury to the public health, safety, and welfare. The

- 1 Planning Director shall be guided in making this decision by the considerations set forth
2 in Section 24.3, General Standards for Granting Variances.
- 3 4. **Critical Area Administrative Variance.**
- 4 a. *Scope.* The granting of an administrative variance in a Critical Area is limited to
5 applications to construct, alter, or enlarge attached decks (open or covered), porches,
6 sheds, garages (detached or attached), patios, breezeways, septic fields, wells, utility
7 installations, principal structures for residential use, or structures for incidental storage
8 uses.
- 9 b. *Applicability.* A Critical Area administrative variance may be sought for construction that
10 would exceed impervious surface cover limits, encroach on the Critical Area Buffer, or
11 disturb steep slopes provided the construction:
- 12 (1) Is on a lot or parcel recorded prior to December 1, 1985; and
13 (2) Shall have little or no impact on the Critical Area Buffer or water quality; and
14 (3) Is located at the greatest possible distance from and, in all cases no closer than
15 50 feet from mean high water (MHW), tidal wetlands and tributary streams ; and
16 (4) Is located no closer than 25 feet from any nontidal wetland; and
17 (5) Does not require the removal of existing vegetation except for the area of
18 proposed construction itself; and
19 (6) Does not result in cumulative impervious surfaces of the existing grandfathered
20 and proposed construction on the site exceeding 150 percent of the allowed
21 impervious surface on the site; and
22 (7) Is mitigated according to a planting agreement agreed upon by the applicant and
23 the Planning Director and executed by the applicant.
- 24 c. *Procedural Requirements.*
- 25 (1) Notice. The applicant shall give notice of its proposal pursuant to the notice
26 requirements set forth in Section 21.3 of the Ordinance.
- 27 (2) Notice to the Chesapeake Bay Critical Area Commission. All requests for
28 administrative variances from Critical Area standards shall be reviewed by the
29 Maryland Critical Area Commission prior to any action by the Planning
30 Director. The Critical Area Commission shall be notified of any administrative
31 action by the Planning Director within 10 days of the action. The Chairman of
32 the Critical Area Commission may appeal an administrative variance granted by
33 the Planning Director pursuant to the provisions of Chapter 22 of the Ordinance.
- 34 (3) Any person, firm or corporation aggrieved by a decision to grant an
35 administrative variance, may appeal to the Board of Appeals within 30 calendar
36 days of the decision.
- 37 d. *Decision.* The decision shall be in writing and provide a brief explanation of the law, the
38 standards for variance, and facts that support the decision. In making the decision, the
39 Planning Director may grant the variance only in cases where strict compliance with the
40 terms of this Ordinance would result in unwarranted hardship that has not been caused by
41 act of the applicant or the applicant's predecessor(s) in title. The Planning Director shall
42 not grant a variance if to do so would violate the intent of, or cause or be likely to cause
43 substantial injury to the public health, safety and general welfare.
- 44 5. **Forest Conservation Administrative Variance.**
- 45 a. *Standards.* The Planning Director shall not grant a variance to forest conservation
46 standards of this Ordinance except upon findings that the general standards for variances

1 set forth in Section 24.10 have been met and that the granting of a variance will not
2 adversely affect water quality.

- 3 b. *Notice to Department of Natural Resources.* Notice of a request for a forest conservation
4 variance shall be given to the Department of Natural Resources within 15 days of receipt
5 of such a request. The Department of Natural Resources shall have the right and
6 authority to initiate or intervene in an administrative, judicial, or other original
7 proceeding or to appeal the approval of an administrative variance under Sections 5-
8 1601-5-1612 of the Natural Resources Article, Annotated Code of Maryland, or this
9 Ordinance.

10 6. ***Denial of Application.***

- 11 a. If the application is denied, the Planning Director shall take no further action on another
12 application for substantially the same proposal on the same premises until after 2 years
13 from the date of such denial.

14 7. ***Appeal of Administrative Decisions.***

- 15 a. Appeals of decisions made pursuant to this section may be filed to the Board of Appeals
16 by an aggrieved person within 30 days of the date of the Planning Director's decision.

17 **22.6. Building Permits.**

18 A building permit shall be required in accordance with the building code adopted by the Board of County
19 Commissioners.

20 **22.7. Certificate of Occupancy.**

21 No certificate of use and occupancy shall be issued until construction is complete and the premises have
22 been inspected and certified to be in conformity with the plans and specifications upon which the zoning
23 permit, building permit, driveway entrance permit and all other permits were granted.

24 **22.8. Schedule of Fees, Fines, and Penalties.**

25 The County Commissioners may establish by resolution a schedule of fees, charges, expenses, and fines
26 and a collection and refund procedure for zoning certificates, appeals, violations, and other matters
27 pertaining to this Ordinance. The schedule of fees shall be available from the Department of Land Use and
28 Growth Management and may be altered or amended only by the County Commissioners.

1 **CHAPTER 23 APPEALS**

2 Sections:

- 3 23.1 Scope of Appeals.
4 23.2 Stay of Proceedings on Appeal.
5 23.3 Postponement.
6 23.4 Continuance.
7 23.5 Appeals.

8 **23.1. Scope of Appeals.**

- 9 1. An appeal may be filed with the Board of Appeals by:
- 10 a. Any person aggrieved by an order, requirement, decision, or determination made in
11 regard to the administration or the enforcement of this Ordinance, as may be amended
12 from time to time; or
- 13 b. Any officer, department, board, or bureau of the County.
- 14 2. Such appeal shall be taken within 30 days of the date of the action being appealed by filing an
15 application for Board of Appeals review with the Department of Land Use and Growth Management.
16 An application for appeal shall identify with specificity all grounds for the appeal.
- 17 3. The Planning Director shall process the application and forward it, along with all papers constituting
18 the record of the action appealed to the Board of Appeals.

19 **23.2. Stay of Proceedings on Appeal.**

20 An appeal shall stay all proceedings in furtherance of the action appealed unless, after notice of the appeal
21 has been filed with him or her, the Planning Director certifies to the Board of Appeals that by reason of fact
22 stated in the Certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such
23 case, proceedings shall only be stayed if the Board or court of record grants a restraining order.

24 **23.3. Postponement.**

25 Requests for postponement of a scheduled hearing shall be filed in writing with the secretary of the Board
26 of Appeals prior to the date of the hearing, and shall be accompanied by a sum of money sufficient to pay
27 the cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall
28 be at the discretion of the chairman of the Board of Appeals. The Board may, upon its own initiative,
29 postpone a scheduled hearing at any time. Hearings may not be postponed for more than 30 days unless the
30 Board of Appeals and all interested parties agree. Failure of an appellant to reschedule a hearing within the
31 agreed period in accordance with Chapter 21 shall constitute withdrawal of the appeal.

32 **23.4. Continuance.**

33 The Board of Appeals may, at the Board's sole discretion, continue a hearing to another time once the
34 hearing has started. However, the Board shall announce the date and hour of continuance of such hearing
35 while in session, unless new notice is provided as required by Section 21.3.

36 **23.5. Appeals.**

37 The Board of Appeals shall render a decision within a reasonable time, but in no instance more than 60
38 days following the close of the hearing. Any taxpayer or any officer, department, board or bureau may
39 appeal that decision or a zoning action of the Board of County Commissioners to the Circuit Court for St.
40 Mary's County.

1 **CHAPTER 24 VARIANCES**

2 Sections:

- 3 24.1 Purpose.
- 4 24.2 Application for Variance and Notice of Hearing.
- 5 24.3 General Standards for Granting Variances.
- 6 24.4 Specific Standards for Granting Variances in the Critical Area.
- 7 24.5 Specific Standards and Procedures for Granting Variances in the Floodplain.
- 8 24.6 Conditions and Restrictions.
- 9 24.7 Denial of Application.
- 10 24.8 Lapse of Variance.
- 11 24.9 Appeals.
- 12 24.10 Variances from Forest Conservation Priority Retention Areas.

13 **24.1. Purpose.**

14 The purpose of this chapter is to establish standards and procedures for considering applications for
15 variances. The Board of Appeals may, in accordance with the provisions of this chapter, vary the height,
16 bulk, area, density, setback, lighting, parking, or landscaping regulations of this Ordinance. The Board
17 may do so in accordance with the standards hereinafter set forth when strict enforcement of this Ordinance
18 creates practical difficulties or unnecessary hardship.

19 **24.2. Application for Variance and Notice of Hearing.**

20 An application for a variance shall be filed in writing with the Planning Director. The application shall
21 contain such information as required to address the standards for variance for the particular application
22 made. Notice of the time and place of public hearing shall be in accordance with the procedures set forth in
23 Section 21.3.

24 **24.3. General Standards for Granting Variances.**

25 Except as provided in Sections 24.3, 24.4 and 24.5, the Board of Appeals shall not vary the regulations of
26 this Ordinance unless it makes findings based upon evidence presented to it that:

- 27 1. Because of particular physical surroundings such as exceptional narrowness, shallowness, size,
28 shape, or topographical conditions of the property involved, strict enforcement of this Ordinance
29 will result in practical difficulty; and
- 30 2. The conditions creating the difficulty are not applicable, generally, to other properties within the
31 same zoning classification; and
- 32 3. The purpose of the variance is not based exclusively upon reasons of convenience, profit, or
33 caprice. It is understood that any development necessarily increases property value, and that alone
34 shall not constitute an exclusive finding; and
- 35 4. The alleged difficulty has not been created by the property owner or the owner's predecessors in
36 title; and
- 37 5. The granting of the variance will not be detrimental to the public welfare or injurious to other
38 property or improvements in the neighborhood and the character of the district will not be changed
39 by the variance; and
- 40 6. The proposed variance will not substantially increase the congestion of the public streets, or
41 increase the danger of fire, or endanger the public safety, or substantially diminish or impair
42 property values within the neighborhood; and
- 43 7. The variance complies, as nearly as possible, with the spirit, intent, and purpose of the
44 Comprehensive Plan.

1 **24.4. Specific Standards for Granting Variances in the Critical Area.**

2 The provisions of the Critical Area Program as implemented in Chapter 41, Critical Area Overlay Districts,
3 and Chapter 71, Resource Protection Standards, may be varied when, owing to special features of the site
4 or circumstances, the literal enforcement of those provisions would result in unwarranted hardship on the
5 landowner.

6 1. **Standards.** The General Standards for Granting Variances set forth in Section 24.3 do not apply to
7 Critical Area variances. Before a Critical Area variance may be granted, the Board of Appeals
8 must find the following:

- 9 a. That special conditions or circumstances exist that are peculiar to the land or structure
10 involved and that strict enforcement of the Critical Area provisions of this Ordinance
11 would result in unwarranted hardship; and
- 12 b. That strict interpretation of the Critical Area provisions of this Ordinance will deprive the
13 applicant of rights commonly enjoyed by other properties in similar areas within the
14 Critical Area of St. Mary's County; and
- 15 c. The granting of a variance will not confer upon an applicant any special privilege that
16 would be denied by the Critical Area provisions of this Ordinance to other lands or
17 structures within the Critical Area of St. Mary's County; and
- 18 d. The variance request is not based upon conditions or circumstances that are the result of
19 actions by the applicant; and
- 20 e. The granting of a variance will not adversely affect water quality or adversely impact
21 fish, wildlife, or plant habitat within the Critical Area, and that the granting of the
22 variance will be in harmony with the general spirit and intent of the Critical Area
23 program; and
- 24 f. The variance is the minimum necessary to achieve a reasonable use of land or structures.

25 2. **Conditions on Variances.** The Board of Appeals shall impose on the use or development of
26 property that is granted a variance conditions it finds reasonable or necessary to assure that the
27 spirit and intent of the Critical Area Program is maintained, including but not limited to:

- 28 a. Location of new or expanded structures or other impervious surfaces the greatest
29 practicable distance from mean high water, tidal wetlands, tributary streams, nontidal
30 wetlands, or steep slopes.
- 31 b. Mitigation of adverse impacts resulting from the granting of a variance, including:
- 32 (1) Vegetative plantings to offset proposed disturbance on the site at no less than a
33 three-to-one basis or as recommended by the Department of Land Use and
34 Growth Management.
- 35 (2) Reforestation on the site to offset proposed disturbance of forest or developed
36 woodland.
- 37 (3) Implementation of mitigation measures for Habitat Protection Areas that are
38 recommended by the Department of Land Use and Growth Management.

39 3. **Notice to Critical Area Commission.** A copy of an application for a variance under this section
40 shall be provided to the Critical Area Commission prior to scheduling the application with the
41 Board of Appeals.

42 **24.5. Specific Standards and Procedures for Granting Variances in the Floodplain.**

43 1. **Board to Hear Variance Requests.** The Board of Appeals shall hear and decide requests for
44 variances from the floodplain regulations of Chapter 76. In considering a variance action,
45 comments from the State Coordination Office of the Water Resources Administration shall be
46 considered and maintained with the permit file.

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- 1 2. **Variations Prohibited.** Variations may not be granted for the following:
- 2 a. Placement of fill or any development in the floodway if any increase in flood levels
- 3 would result.
- 4 b. Placement of fill in the coastal high hazard area for structural support.
- 5 c. New buildings in the floodway.
- 6 3. **Standards.** The general standards for granting a variance set forth in Section 24.3 do not apply to
- 7 floodplain variations. Floodplain variations shall only be issued upon:
- 8 a. A determination that failure to grant a variance would result in unnecessary hardship to
- 9 the applicant. The purpose of the variance is not based exclusively upon reasons of
- 10 convenience, profit, or caprice. It is understood that any development necessarily
- 11 increases property value, and that alone shall not constitute an exclusive finding; and
- 12 b. A determination that the granting of a variance will not result in increased flood heights,
- 13 additional threats to public safety, extra public expenses, nuisances; or cause fraud or
- 14 victimization of the public; or conflict with existing local and state laws or ordinances;
- 15 and
- 16 c. A showing that granting the variance will not confer special benefits to the applicant not
- 17 enjoyed by other floodplain residents; and
- 18 d. A demonstration that the variance is the minimum relaxation of standards necessary,
- 19 considering the flood hazard, to afford relief; and
- 20 e. A determination that potential detrimental effects will be mitigated so that other property
- 21 owners shall not be adversely affected.
- 22 4. **Conditions.** Variations consistent with sound floodplain management may be granted by the Board
- 23 of Appeals for new construction and for substantial improvements to allow the applicant to
- 24 conduct a functionally dependent use subject to the following standards and procedures:
- 25 a. A functionally dependent use cannot perform its intended purpose unless it is located or
- 26 carried out in close proximity to water. Such uses include only docking facilities, port
- 27 facilities necessary for the loading and unloading of cargo or passengers, and ship
- 28 building and ship repair facilities. Functionally dependent uses, do not include long-term
- 29 storage or related manufacturing facilities.
- 30 b. The variance may be issued only upon sufficient proof of the functional dependence of
- 31 the use and only for those structures that are proved to be functionally dependent.
- 32 c. The provisions of Section 76.6 must be met and the structure must be protected by
- 33 methods that minimize flood damage up to the Flood Protection Elevation and that create
- 34 no additional threats to public safety. This may require methods of “wet floodproofing”
- 35 which allow the structure to flood without significant damage. Methods of floodproofing
- 36 must not require human intervention to function properly.
- 37 5. **Notification of Terms and Conditions of Variance.** The Board’s decision shall be sent to the
- 38 applicant indicating the terms and conditions of the variance if granted. The applicant shall also
- 39 be advised by the Department of Land Use and Growth Management that the variance may
- 40 increase risk to life and property and premium rates for National Flood Insurance coverage. The
- 41 applicant shall be notified in writing of the requirement to record these conditions on the deed or
- 42 Memorandum of Land Restriction prior to obtaining a permit, and of the need to secure all
- 43 necessary permits as conditions for granting a variance. A Memorandum of Land Restriction is
- 44 described in Section 3-102 and 3-103 of the Real Property Article, Annotated Code of Maryland.
- 45 6. **Record keeping.** The Planning Director shall maintain a record of all floodplain variance
- 46 decisions and submit the record as part of the biennial report to the Federal Emergency
- 47 Management Agency.

1 **24.6. Conditions and Restrictions.**

2 In granting any variance, the Board of Appeals may impose such conditions and restrictions upon the
3 premises benefited by a variance as may be necessary to comply with the standards established in this
4 Chapter and the objectives of this Ordinance. This provision shall not be construed so as to permit the
5 Board, under guise of a variance, to change the permitted use of the land.

6 **24.7. Denial of Application.**

7 If the application is denied, the Board of Appeals shall take no further action on another application for
8 substantially the same proposal on the same premises until after two years from the date of such denial.

9 **24.8. Lapse of Variance.**

10 Variances shall lapse one year from the date of the grant of the variance by the Board of Appeals unless:

- 11 1. A zoning or building permit is in effect, the land is being used as contemplated in the variance, or
12 regular progress toward completion of the use or structure contemplated in the variance has taken
13 place in accordance with plans for which the variance was granted; or
- 14 2. A longer period for validity is established by the Board of Appeals; or
- 15 3. The variance is for future installation or replacement of utilities at the time such installation
16 becomes necessary.

17 **24.9. Appeals.**

18 Any person aggrieved by any decision of the Board of Appeals may appeal the decision to the Circuit Court
19 for St. Mary's County pursuant to the provisions of Section 23.5 of the Ordinance.

20 **24.10. Variances from Forest Conservation Priority Retention Areas.**

- 21 1. *General.* The general standards for granting a variance set forth in Section 24.3 do not apply to
22 Forest Conservation Priority Retention Area variances. Variances to Forest Conservation Priority
23 Retention Areas are limited to trees described in Chapter 75.8.2.b.(4), (5), and (6).
- 24 2. *Application.* As part of the application for a variance from Forest Conservation Priority Retention
25 Area requirements, the applicant must demonstrate, to the satisfaction of the County, that
26 reasonable efforts have been made to protect trees described in Chapter 75.8.2.b. (4), (5) and (6)
27 and the plan cannot reasonably be altered.
- 28 3. *Standards.* A variance from Forest Conservation Priority Retention Area requirements shall only
29 be granted by the Planning Director upon findings that:
 - 30 a. Owing to special features of a site or other circumstances, implementation of the
31 provisions of Chapter 75 would result in unwarranted hardship to the applicant, and
 - 32 b. The granting of a variance will not adversely affect water quality.

1 **CHAPTER 25 CONDITIONAL USES**

2 Sections:

- 3 25.1 Purpose.
- 4 25.2 Initiation of Conditional Uses.
- 5 25.3 Application for Conditional Use.
- 6 25.4 Hearing on Application.
- 7 25.5 Authorization.
- 8 25.6 Standards.
- 9 25.7 Conditions and Guarantees.
- 10 25.8 Effect of Denial of a Conditional Use.
- 11 25.9 Limitation on Conditional Use Approval.

12 **25.1. Purpose.**

13 Development in the County and execution of this Ordinance are based upon the division of the County into
14 districts within which the use of land and buildings and the bulk and location of buildings and structures in
15 relation to the land are substantially uniform. However, certain uses because of their particular
16 characteristics, cannot be permitted without consideration, in each case, of their impact upon neighboring
17 land and of the public need for the particular use at the particular location. The purpose of this chapter is to
18 establish procedures and minimum standards to be used for the consideration and authorization of
19 conditional uses, including expansion or intensification of such uses.

20 **25.2. Initiation of Conditional Uses.**

21 Any property owner or other person with an enforceable legal interest in property may file an application to
22 use such land for one or more of the conditional uses provided in the zoning district in which the land or a
23 portion thereof is located. The Board of Appeals shall hear and decide upon all applications for conditional
24 use approval.

25 **25.3. Application for Conditional Use.**

26 Application for conditional use shall be filed with the Planning Director on a form prescribed by the
27 Planning Director. If the conditional use involves major site plan approval, the applicant must schedule a
28 pre-application conference in accordance with Section 60.4.1.a and proceed through the specified process.
29 If conditional use approval requires minor site plan approval, the applicant must follow the requirements of
30 Section 60.6.1. In the event that no site plan approval is required as part of the conditional use, the
31 applicant may request an informal pre-application conference with Land Use and Growth Management
32 staff. Upon determination of the completeness of the application, the Planning Director shall forward the
33 application to the Technical Evaluation Committee (TEC) and then to the Board of Appeals for review and
34 decision.

35 **25.4. Hearing on Application.**

36 The Board of Appeals shall hold a public hearing on each application for a conditional use as provided in
37 Section 21.2. The hearing shall be conducted and a record of such proceedings shall be preserved in such
38 manner as the Board shall prescribe from time to time. Notice is required as provided in Section 21.3.

39 **25.5. Authorization.**

40 For each application for a conditional use, the Board of Appeals should, within 60days of receipt of the
41 application after TEC review, conduct its public hearing and report its findings and decisions, including the
42 stipulations or conditions and guarantees deemed necessary for the protection of the public interest.

43 **25.6. Standards.**

44 No conditional use shall be approved by the Board of Appeals unless the Board finds that:

- 45 1. The conditional use complies with the standards of the district in which it is to be located and
46 standards applicable to that use; and

- 1 2. The establishment, maintenance, and operation of the conditional use will not be detrimental to or
2 endanger the public health, safety, convenience, morals, order, or general welfare; and
- 3 3. The conditional use will not be injurious to the use and enjoyment of other property in the
4 immediate vicinity for the purposes already permitted, and will not substantially diminish or
5 impair property values within the neighborhood; and
- 6 4. The proposed use at the proposed location will not have adverse effects above and beyond those
7 inherently associated with the proposed use irrespective of its location within the zoning district;
8 and
- 9 5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being
10 provided; and
- 11 6. Adequate measures have been or will be taken to provide ingress and egress following a design
12 that minimizes traffic congestion in the public streets; and
- 13 7. The proposed conditional use is not contrary to the goals, objectives, and policies of the
14 Comprehensive Plan; and
- 15 8. The conditional use shall, in all other respects, conform to the applicable regulations of the district
16 in which it is located or to the special requirements established for the specific conditional use in
17 Chapter 51.

18 **25.7. Conditions and Guarantees.**

19 Before granting any conditional use, the Board of Appeals shall stipulate such conditions and restrictions
20 upon the establishment, location, construction, maintenance, and operation or expansion of the conditional
21 use as are deemed necessary for the protection of the public interest and to secure compliance with the
22 standards and requirements specified in Section 25.6 above. In all cases in which conditional uses are
23 granted, the board may require guarantees it deems necessary.

24 **25.8. Effect of Denial of a Conditional Use.**

25 No application for a conditional use that has been denied wholly or in part by the Board of Appeals shall be
26 resubmitted for a period of two years from the date of said order of denial, except on the grounds of new
27 evidence or proof of change of conditions found to be valid by the Board of Appeals.

28 **25.9. Limitation on Conditional Use Approval.**

29 Subject to an extension of time granted by the Board of Appeals for cause, no conditional use permit shall
30 be valid for a period longer than one year unless a site plan is approved, a building permit is issued,
31 construction is actually begun within that period and is thereafter diligently pursued to completion, or a
32 certificate of occupancy is issued and use commenced within that period.

1 **CHAPTER 26 TRANSFERABLE DEVELOPMENT RIGHTS (TDRS)**

2 Sections:

- 3 26.1 Purpose.
- 4 26.2 Right to Transfer Development Rights.
- 5 26.3 TDR Sending Zones; Assignment of Transferable Development Rights.
- 6 26.4 Maximum Residential or Non-Residential Density/Intensity Allowed in Receiving Zones.
- 7 26.5 Effect of Transfer.
- 8 26.6 Rights of Transferees.
- 9 26.7 Certification by Director of Land Use and Growth Management and County Attorney.
- 10 26.8 Instruments of Transfer.
- 11 26.9 Approval of the Development Using Transferable Development Rights.
- 12 26.10 Fee in Lieu.
- 13 26.11 Exempted lots from TDR requirements.
- 14 26.12 Uses allowed after TDRs have been severed from the sending area.
- 15 26.13 Grandfathering.

16 **26.1. Purpose.**

- 17 1. The Transferable Development Rights (TDR) program in this chapter is voluntary for property
18 owners and is provided as a means to further the objectives of the Comprehensive Plan. The chapter
19 provides flexibility to encourage the protection of farmland and resource protection areas by
20 allowing the transfer of development potential from a site that has resources deserving protection to
21 a site in a designated receiving zone.
- 22 2. In order to protect agricultural areas and give the owners of such property an alternative to
23 development, or a means to recover some of the value from an undevelopable residential lot, TDRs
24 are established.

25 **26.2. Right to Transfer Development Rights.**

- 26 1. **Removing Development Rights from the Land.** Each landowner of a parcel in a sending area
27 (“transferor”) has the right to remove all or a portion of the right to develop from the parcel (the
28 “sending parcel”), and to hold, sell, trade or barter these rights to another person or legal entity
29 (“transferee”).
- 30 2. **Using Development Rights.** The transferee may retire the development rights, resell them, or apply
31 them to land in a receiving area (the “receiving parcel”) in order to obtain approval for development
32 at a density or intensity of use greater than would otherwise be allowed on the land, up to the
33 maximum density or intensity indicated in Schedules 32.1 and 32.2, subject to the following:
 - 34 a. No development right may be used to increase density within the Critical Area if such right
35 is derived from a portion of a sending parcel that is outside the Critical Area, nor may a
36 development right be transferred from land within an Intensely Developed Area (IDA) or
37 Limited Development Area (LDA) to a Resource Conservation Area (RCA), or from an
38 IDA to an LDA, nor may any development right be transferred to land in the RCA from any
39 RCA lot of record that is less than 20 acres in size.
 - 40 b. Land zoned RPD which is designated as a Rural Legacy Area by the Maryland Rural
41 Legacy Board shall not be developed to a density greater than one (1) dwelling unit per five
42 (5) acres of gross area.
 - 43 c. No use of a development right shall result in a reduction of resource protection land
44 required by this Ordinance on a receiving parcel.

- 1 d. No development right may be derived from land in a sending zone that is already expressly
2 prohibited from transferring development rights by virtue of a recorded restrictive covenant
3 or agricultural or environmental easement. Development rights may be derived from
4 property subject to the St. Mary's County Agriculture Land Tax Credit Program between
5 the owner and the Board of County Commissioners.
- 6 e. Except for transfer of rights from lots of record that cannot be developed for residential
7 purposes, no development right may be derived from land in a sending area that is part of a
8 subdivision that has no available density remaining in the parent tract. Where density is
9 available, the rights shall be assigned based on the unused density available in the
10 subdivision.

11 **26.3. TDR Sending Zones; Assignment of Transferable Development Rights.**

- 12 1. **Designation.** Rural Preservation Districts ("RPD") shall be TDR sending areas and may be
13 receiving areas subject to Schedule 32.1.
- 14 2. **Determination.** Each qualifying lot or parcel in the RPD (including but not limited to parcel of
15 record prior to March 1978, lot in a subdivision, or outparcel created by a subdivision) shall have
16 one (1) transferable development right for each five (5) acres of land based on the gross acreage
17 within the parcel, as determined by the transferor's recorded deed. In the event the gross acreage
18 cannot be ascertained from the recorded deed, the gross acreage of the parcel shall be determined by
19 the most recent records of the Maryland Department of Assessments and Taxation. In any event, at
20 the transferor's option, the gross acreage may be determined by a metes and bounds survey of the
21 parcel prepared, signed and sealed by a duly licensed professional land surveyor or property line
22 surveyor, which determination shall take precedence over the gross acreage determined by the
23 recorded deed or the assessment records. One (1) TDR shall be deducted for each existing dwelling
24 and one (1) TDR shall be deducted for each proposed dwelling for which a building permit has been
25 duly issued by the Department of Land Use and Growth Management for the parcel prior to July 24,
26 2007.
- 27 3. **Fractional Rights.** Fractional parts of a development right shall be disregarded. No transfer shall
28 include other than a whole number of development rights.

29 **26.4. Maximum Residential or Non-Residential Density/Intensity Allowed in Receiving Zones.**

- 30 1. Zoning Districts RNC (in growth areas only), RPD, RL, RH, RMX, VMX, TMX, and CMX are
31 receiving zones for TDRs for increased residential density. The RPD, RSC, RCL, RL, RMX, VMX,
32 TMX, DMX, CMX CC, OBP and I are receiving zones for TDRs for increased non-residential
33 intensity of approved uses in the respective zones.
- 34 2. Land located in a receiving zone may be developed at additional density or intensity of use through
35 the acquisition of TDRs, up to the maximum density or intensity indicated in Schedules 32.1 and
36 32.2.
- 37 3. With the exception of the RPD, the residential density for land within a receiving zone may be
38 increased at a rate of one (1) additional dwelling unit for each TDR, up to the maximum number
39 permitted in Schedules 32.1 and 32.2.
- 40 4. Parcels of record as defined in chapter 90, Definitions existing within the RPD on the date of this
41 Ordinance shall be considered a single residential lot, with no requirement for the use of TDRs for
42 any existing residential dwellings that exist on the parcel or for which a valid building permit has
43 been issued as of the date of this Ordinance.
- 44 a. Such existing dwellings or dwellings for which a valid building permit has been issued may
45 be subdivided from the receiving parcel as separate lots without the use of TDRs.
- 46 b. If no residential dwelling exists on the parcel or for which a valid building permit has not
47 been issued as of the date of this Ordinance, one (1) single-family residential dwelling may
48 be constructed on the parcel without the use of TDRs.
- 49 5. For an eligible receiving parcel in the RPD, the first dwelling or lot will use five (5) acres of base
50 density, but will not require additional TDRs. For each dwelling or residential lot thereafter, in

1 addition to the base density, TDRs will be required as follows: For a receiving parcel in the RPD, in
 2 addition to the five (5) acre base density deducting one (1) TDR shall be required for each additional
 3 residential lot or dwelling, provided the parcel density does not exceed one (1) residential lot or
 4 dwelling for each five (5) acres of gross area, two (2) TDRs shall be required for each additional
 5 residential lot or dwelling in excess of 1 dwelling unit per 5 acre density, provided the parcel density
 6 does not exceed one (1) residential lot or dwelling for each four (4) acres of gross area, and three (3)
 7 TDRs shall be required for each additional residential lot or dwelling in excess of 1 dwelling unit
 8 per 4 acre density, provided the parcel density does not exceed one (1) residential lot or dwelling for
 9 each three (3) acres of gross area.

10 The number of TDRs required per residence is based on the density of the property as developed
 11 July 24, 2007 in accordance with the following schedule.

Density (number of units per acre)	Number of TDRs
1 dwelling unit per 5 acres	1 TDR per lot after the 1 st lot or dwelling
1 dwelling unit per 4 acres	2 TDRs per lot or dwelling
1 dwelling unit per 3.0 acres	3 TDRs per lot or dwelling

12 **26.5. Effect of Transfer.**

- 13 1. After development rights have been transferred by an instrument of original transfer, the sending
 14 parcel shall not be further subdivided or developed to a greater density or intensity of use than
 15 permitted on the remaining acreage. Once development rights have been transferred from a lot or
 16 parcel of record, that lot or parcel of record shall not later become a receiving parcel.
- 17 2. The portion of the sending parcel from which development rights have been transferred may be used
 18 only for the uses listed in 26.12.
- 19 3. All development rights that are the subject of an “instrument of original transfer,” described in
 20 Section 26.8, shall be deemed removed from the sending parcel when such rights have been severed
 21 from the property by recording of the “instrument or original transfer” in form and content approved
 22 by the County Attorney.

23 **26.6. Rights of Transferees.**

24 Between the time of the transfer of a development right by an original transferor and the time when its use on
 25 a specific receiving parcel is final in accordance with the provisions of this chapter, a transferee has only the
 26 right to use the development right to the extent authorized by all applicable provisions of the Ordinance in
 27 effect at the time when use of the development right for a specific receiving parcel is finally approved. No
 28 transfer shall be construed to limit or affect the power of the County Commissioners to amend, supplement or
 29 repeal any or all of the provisions of this chapter or any other section of this Ordinance or to entitle any
 30 transferor or transferee to damages or compensation of any kind as the result of any such amendment,
 31 supplementation or repeal.

32 **26.7. Certification by Director of Land Use and Growth Management and County Attorney.**

- 33 1. **Requirement.** The Planning Director shall certify that the development rights proposed for transfer
 34 are available for transfer from the sending parcel. No transfer shall be recognized under this chapter
 35 unless the instrument of original transfer contains the Planning Director’s certification.
- 36 2. **Application for Certificate.** An application for a certificate shall contain a certificate of title by an
 37 attorney duly licensed to practice law in the State of Maryland and a description of the proposed
 38 sending parcel from which development rights are being removed. Applicable fees and any
 39 additional information the Planning Director deems necessary to determine the number of
 40 development rights involved in the proposed transfer shall also be required.
- 41 3. **Responsibility.** The transferor and the transferee named in an instrument of original transfer shall
 42 have sole responsibility for supplying all information required by this chapter, providing a proper
 43 instrument of original transfer, and paying, in addition to any other fees required by this chapter, any
 44 applicable recording costs.

- 1 4. **Issuance of Certificate.** On the basis of the information submitted to him or her, the Planning
2 Director shall affix a certificate of his or her findings to the instrument of original transfer and shall
3 assign to each development right a distinct serial number based on a registration system developed
4 and approved by the Planning Director, which number shall be used to track each development right.
5 The certificate shall contain the serial numbers and a specific statement of the quantity of
6 development rights that are derived from any portions of the sending parcel within the Critical Area.
7 The Planning Director's certification, the title certificate and the instrument of original transfer shall
8 be reviewed and approved by the County Attorney for legal sufficiency.
- 9 5. **Effect of Determination.** The determination of the Planning Director and the County Attorney shall
10 not be construed to enlarge or otherwise affect in any manner the nature, character, and effect of a
11 transfer as set forth in Section 26.5.

12 **26.8. Instruments of Transfer.**

- 13 1. **An Instrument of Transfer.** An instrument of transfer shall conform to the requirements of this
14 section. There shall be three types of instruments of transfer, all of which shall be on forms
15 approved and developed by the County Attorney; (i) an instrument of original transfer which shall
16 be used to sever the development right from the property and which shall be executed by the owner
17 of the property from which the development right is being severed as both grantor and grantee; (ii)
18 an instrument of intermediate transfer which shall be used to transfer the development right between
19 intermediate owners of the development right; and (iii) the instrument of final transfer which shall
20 be used to convey the development right to the Board of County Commissioners of St. Mary's
21 County by which the development right is extinguished and used for the purposes of development
22 on the receiving parcel.
- 23 2. **Requirements of All Instruments.** All instruments of transfer shall contain:
- 24 a. The names of the transferor and the transferee;
- 25 b. A certificate of title for the rights to be transferred certified to by an attorney licensed to
26 practice law in Maryland in a form approved by the County Attorney;
- 27 c. A covenant that the transferor grants and assigns to the transferee and the transferee's heirs,
28 personal representatives, successors and assigns a specified number of development rights
29 from the sending parcel;
- 30 d. If any rights involved in the transfer are derived from portions of the sending parcel within
31 the Critical Area, a specific statement of the number of such rights included within the
32 transfer;
- 33 e. A covenant by which the transferor acknowledges that he or she has no further use or right
34 of use with respect to the development rights being transferred;
- 35 f. A statement of the rights of the transferee prior to final approval of the use of those
36 development rights on a specific parcel, as set forth in Section 26.2, except when the
37 development rights are being transferred to the Board of County Commissioners in
38 accordance with this chapter; and
- 39 g. A covenant that at the time when any development rights involved in the transfer are finally
40 approved for use on a specific receiving parcel, such rights shall be transferred to the Board
41 of County Commissioners for no consideration.
- 42 h. The serial number of each development right being transferred pursuant to the instrument
43 of transfer, to be shown on Land Use and Growth Management form Exhibit B signed by
44 the Director, Certificate of Transferable Development Right in the Original Instrument of
45 Transfer.
- 46 3. **Requirements of Instruments of Original Transfer.** An "instrument of original transfer" is required
47 for each sending parcel when a development right is initially removed from the sending parcel and
48 shall contain:

- 1 a. A description of the property from which the development right is being removed, either
2 from the recorded deed or at the transferor's option, from the boundary survey of the
3 sending parcel, prepared, signed and sealed by a duly licensed surveyor, or professional
4 property line surveyor, provided that if a boundary survey is used the instrument shall also
5 reference the deed recording reference.
- 6 b. A covenant that the sending parcel may not be subdivided to a greater extent than permitted
7 by the remaining development rights and that such subdivision shall be in accordance with
8 the zoning and subdivision regulations in place at the time of the request for subdivision.
- 9 c. A covenant that the sending parcel is restricted to and may be used only for agricultural
10 uses and those uses allowed in Section 26.12 of this chapter and such residential uses as are
11 permitted by the remaining development rights.
- 12 d. A covenant that all provisions of the instrument of transfer shall run with and bind the
13 sending parcel and may be enforced by the County Commissioners, the Planning Director
14 and their respective designees.
- 15 e. The certificate of the Planning Director required by Section 26.7.
- 16 4. **Requirements for Instruments of Intermediate Transfer.** An instrument of intermediate transfer
17 shall include:
 - 18 a. A statement that the transfer is an intermediate transfer of rights derived from a sending
19 parcel described in an instrument of original transfer (which original instrument shall be
20 identified by its date, the names of the original transferor and transferee and the book and
21 page where it is recorded among the land records of St. Mary's County).
 - 22 b. A list of all previous "intermediate instruments of transfer" identified by their date, and the
23 book(s) and page(s) where the documents are recorded among the land records of St.
24 Mary's County affecting the development rights being transferred.
 - 25 c. A statement of the actual consideration paid or to be paid by the transferee for the
26 development rights.
- 27 5. **Requirements for Instruments of Final Transfer.** An instrument of final transfer shall include:
 - 28 a. A statement that the transfer is a final transfer of rights derived from a sending parcel
29 described in an instrument of original transfer (which original instrument shall be identified
30 by its date, the names of the original transferor and transferee and the book and page where
31 it is recorded among the land records of St. Mary's County).
 - 32 b. The instrument of original transfer and all previous intermediate instruments of transfer
33 identified by their date, and the book(s) and page(s) where the documents are recorded
34 among the land records of St. Mary's County affecting the development rights being
35 transferred.
 - 36 c. A statement of the actual consideration paid or to be paid by the transferee for the
37 development rights.
 - 38 d. A current certificate of title.
- 39 6. **Recordation of All Instruments of Transfer/Delivery to DECD and Planning Director.** After it has
40 been properly executed, an original instrument of transfer or intermediate instrument of transfer
41 shall be recorded by the transferor or the transferee among the land record of St. Mary's County, and
42 a copy thereof shall be promptly delivered to the Planning Director and the Department of
43 Economic and Community Development ("DECD"). After it has been reviewed and approved for
44 legal sufficiency by the County Attorney, and executed by the transferor and the Planning Director,
45 on behalf of the County, a final instrument of transfer shall be recorded by the Planning Director in
46 the land records of St. Mary's County, and a copy of the recorded instrument shall be promptly
47 delivered by the Planning Director to the transferor.

1 **26.9. Approval of the Development Using Transferable Development Rights.**

- 2 1. **Initial Request for Use of TDR in a Development Project.** The request to use development rights
3 on a property in the receiving area shall be in the form of a concept or preliminary subdivision plat,
4 a site plan, or other application for development submitted in accordance with the requirements of
5 this Ordinance. In addition to any other information required by this Ordinance, the application
6 shall be accompanied by a statement of intent to transfer development rights to the property and a
7 statement of the number of development rights intended to be transferred.
- 8 2. **Preliminary approvals.** The County may grant preliminary subdivision or concept site plan
9 approval for the proposed development conditioned upon proof of ownership of the necessary TDRs
10 or a contract to purchase said TDRs being presented to the County as a prerequisite to final
11 subdivision or site plan approval.
- 12 3. **Final Subdivision or Site Plan Approval of a Development Using TDRs.**
- 13 a. **Proof of ownership of TDR's and proof of deed restriction.** No final plat shall be approved
14 and no zoning permits shall be issued for development involving the use of TDRs until and
15 unless the applicant has demonstrated to the County that:
- 16 (1) The applicant is the bona fide owner of all TDRs that will be used or redeemed for
17 the construction of additional dwellings or the creation of additional lots;
- 18 (2) An instrument of transfer for the TDRs proposed for the development has been
19 recorded in the chain of title of the parcel of land from which the development
20 rights has been transferred and that such instrument restricts the use of that parcel
21 in accordance with this chapter; and
- 22 (3) The TDRs proposed for the development have not been previously used. Proof
23 must be in the form of a current title certificate issued by a licensed attorney.
- 24 b. **Required Instruments.** The following instruments, which may be required to effect transfer
25 of development rights to the receiving parcel, shall be approved as to form and legal
26 sufficiency by the County Attorney. Said instruments shall be recorded among the land
27 records of St. Mary's County when the subdivision record plat is recorded or subsequent to
28 final site plan approval but before building permits are released.
- 29 (1) An instrument of original transfer.
- 30 (2) All intermediate instruments of transfer between any intervening transferees,
31 including the owner of the receiving parcel.
- 32 (3) A final instrument of transfer to the Board of County Commissioners.
- 33 4. **When Completed.** Transfer to a receiving parcel is final when the approved final subdivision plat or
34 approved final site plan for the receiving parcel, listing quantity and serial numbers of all
35 Transferable Development Rights, has been recorded or approved, as applicable, in accordance with
36 this Ordinance and when the development right has been transferred by a final instrument of transfer
37 to the Board of County Commissioners at no cost to the County.

38 **26.10. Fee in Lieu.**

- 39 1. **Open Lands Option.** In lieu of purchasing development rights from a sending parcel for use in
40 development of a receiving parcel, a person may pay a fee to the County, which the County shall
41 hold in a separate Open Lands Trust Fund for use in purchasing development rights from owners of
42 sending parcels and other related purposes as defined in the subsections below.
- 43 2. **Fee Schedule.** A schedule of the "in lieu of" fees for the Open Lands Trust Fund shall be
44 established annually. The fee in lieu for each TDR shall be one hundred twenty percent (120%) of
45 the average fair market value paid for TDRs in "arms-length" intermediate transactions in the
46 previous fiscal year, as calculated by the DECD Director. The DECD Director shall make public the
47 fee in lieu calculations no later than thirty (30) days following the end of the fiscal year. The Board
48 of County Commissioners shall reserve the right to increase or decrease the fee in lieu within the

1 thirty (30) day period following the DECD Director's annual determination, after which such
2 determination shall remain in effect until the following fiscal year.

3 3. **Administration of Fee in Lieu Program.** The DECD Director shall administer the fee in lieu
4 program and coordinate the necessary forms and documentation consistent with the requirements of
5 this chapter. Those applicants who pay the fee in lieu may apply credits received for said payments
6 to develop land in a receiving parcel at an additional density or intensity of use through the same
7 provision as for TDRs contained herein.

8 4. **Use of Funds from Payment of Fees in Lieu.** Payments received by the County as fees in lieu of
9 purchasing development rights from sending zones shall be used by the St. Mary's County
10 Agricultural Preservation Commission to acquire property having a resource deserving of protection
11 or replenish the Critical Farms Programs. Such purchase of development rights may be resold by
12 the County.

13 **26.11. Exempted lots from TDR requirements.**

14 A maximum of 2 lots may be created for conveyance to children (natural or legally adopted) without the use
15 of a TDR subject to the following:

- 16 1. The conveying property owner owned the land in the RPD zone as of May 13, 2002;
- 17 2. The lots created pursuant to this exemption comply with the 1 to 5 acre base density of the RPD;
- 18 3. A maximum of 2 exempt lots for children may be subdivided from the parcel of land;
- 19 4. A child shall not receive more than one exempt lot in the RPD zone;
- 20 5. The property owner must submit a subdivision plan prior to May 13, 2009 and record the
21 subdivision plat prior to May 13, 2012;
- 22 6. The property owner creating the lot must enter into an agreement with the County that:
 - 23 a. Contains the grantor's obligations under this section;
 - 24 b. Is recorded in the land records of St. Mary's County;
 - 25 c. Is noted on the subdivision plat; and
 - 26 d. Prohibits the grantee from transferring the conveyed lot to a third party for at least seven
27 years from the date of final approval of the family conveyance, except in a case of severe
28 hardship, as determined by the Director of Land Use and Growth Management.
 - 29 e. Compliance with all remaining applicable regulations of the Zoning Ordinance and
30 Subdivision Ordinance.

31 **26.12. Uses allowed after TDRs have been severed from the sending area.**

32 The following uses may be allowed on land in the RPD zone after TDRs have been severed from the sending
33 area. All uses must comply with other applicable regulations in the Zoning Ordinance.

- 34 1. Agricultural Industry, minor (on-the-farm processing, e.g. small grain mills, dairy processing)
- 35 2. Animal Husbandry
- 36 3. Aquaculture (raising finfish, shellfish, aquatic plants)
- 37 4. Crop production and horticulture e.g. (typical row & field crops, orchards, nursery)
- 38 5. Farmers' market (locally produced goods, sales by 2 or more sellers)
- 39 6. Auction House (wholesaling of locally produced goods)
- 40 7. Roadside stand
- 41 8. Silviculture
- 42 9. Burial grounds (family plots only)
- 43 10. Day Care, family, home

- 1 11. Rural medical practice
- 2 12. Bed and breakfast (in existing dwellings)
- 3 13. Personal improvement service (accessory to principle residence)
- 4 14. Extractive industry (mining, gravel pits)
- 5 15. Production industry, custom (small scale, hand manufactured e.g. blacksmith, welding, carpentry)
- 6 16. Communication towers, commercial and public
- 7 17. Regional flood and stormwater management facility
- 8 18. Utilities, minor
- 9 19. Various accessory uses
- 10 20. Various temporary events

11 **26.13. Grandfathering.**

12 For Major Subdivisions, Minor Subdivisions, Major Site Plans, Minor (Simplified) Site Plans and a request
13 for TDR certification per Chapter 26, for which a complete application has been submitted to the Technical
14 Evaluation Committee ("TEC") prior to July 24, 2007, and Phasing Plans which have been approved prior to
15 July 24, 2007, the Applicant shall have the option of proceeding with development pursuant to the provisions
16 of Chapter 26, Schedule 32.1 and 32.2 of this Ordinance as they existed on the date for which the complete
17 application was submitted to the TEC or the Phasing Plan was approved, or as the same was previously
18 grandfathered by this Ordinance, or pursuant to the provisions of Chapter 26, Schedule 32.1 and Schedule
19 32.2 as revised on July 24, 2007.

1 **CHAPTER 27 VESTED RIGHTS AND AUTHORITY TO CONTINUE NONCONFORMING**
2 **PROJECTS**

3 Sections:

- 4 27.1 Purpose.
5 27.2 Vested Rights.
6 27.3 Grandfathering Provisions.
7 27.4 Grandfathering of Phasing Plans and Schedules.
8 27.5 Effect of Previous Regulations.
9 27.6 Annual Update.

10 **27.1. Purpose.**

11 The purpose of this chapter is to permit the continuation of projects for which plan approval has been given
12 prior to the effective date of applicable ordinance changes or revisions.

13 **27.2. Vested Rights.**

14 St. Mary's County recognizes and accepts the standard of vested rights as established by Maryland
15 common law.

16 **27.3. Grandfathering Provisions.**

17 Transitional provisions to be known as grandfathering provisions are hereby adopted to provide for the
18 continuance of certain development activities. No extensions of the stated time periods below shall be
19 granted, except as noted in Section 27.4.2, below.

- 20 1. **Subdivisions:** Subdivisions shall be vested pursuant to the provisions listed below.
- 21 a. **Major Subdivisions:** Major subdivision projects that have been granted preliminary
22 subdivision plan approval prior to (effective date of this Ordinance) will have a maximum
23 of two years from the date of such approval to be granted final subdivision approval.
24 From the date of final subdivision approval a project will have one year in which to
25 record the record plat. Those projects that must be phased in accordance with the Annual
26 Growth Policy may continue toward recordation in accordance with the yearly allocations
27 allowed.
- 28 b. **Minor Subdivisions:** *Minor subdivision* projects that have been processed through the
29 Technical Evaluation Committee (TEC) prior to (effective date of this Ordinance) shall
30 have twelve months (from adoption of this amendment) to achieve final subdivision
31 approval.
- 32 2. **Site Plans:** Projects requiring major site plans that have been processed through the Technical
33 Evaluation Committee (TEC) shall have 30 months from receipt of TEC comments to receive final
34 site plan approval, receive building permits, and commence construction.
- 35 3. **Minor Site Plans:** Projects requiring minor site plans that have been processed through the
36 Technical Evaluation Committee (TEC) shall have six months from receipt of TEC comments to
37 achieve final site plan approval.
- 38 4. **Planned Unit Developments:** Grandfathering of a Planned Unit Development as approved by the
39 Board of County Commissioners shall be governed by Chapter 44, Section 44.4.3.b.
- 40 5. **Conditional Uses:** Those projects having conditional use approval by written order of the Board
41 of Appeals shall have 30 months from the date of the written order to receive all required
42 approvals to implement the approved conditional use and commence construction.
- 43 6. **Growth Allocation:** Those calendar year 2010-2011 growth allocation projects having begun the
44 public hearing process with the Planning Commission, may proceed to decision by the Board of
45 County Commissioners and the Chesapeake Bay Critical Area Commission under Ordinance 02-
46 01 as amended.

1 7. **Building Permits:** Applications for building permits filed with the Department of Land Use and
2 Growth Management before (effective date of this Ordinance) may have twelve months to receive
3 all final approvals without meeting the requirements of this Ordinance.

4 **27.4. Grandfathering of Phasing Plans and Schedules.**

5 1. All commercial or residential phasing plans and schedules approved prior to the enactment of this
6 Ordinance shall remain in effect. Construction and development relating to such plans may be
7 completed in accordance with the terms of the previously approved phasing plan. Any revisions
8 proposed under this chapter shall conform with all Maryland state rules, regulations, and statutory
9 provisions, and any construction standards as set forth in the rules, regulations, and ordinances of
10 St. Mary's County, in effect when the applicant applied for a revision to the phasing plan and
11 schedule, unless said plans, schedules, and/or revisions are exempted under said rules, regulations
12 statutory provisions, and/or ordinances.

13 2. Any applicant shall be allowed to apply for a revision to any phasing plan and schedule
14 grandfathered under the provisions of this chapter, and such revisions may be approved by the
15 Planning Commission provided the applicant can show that there are compelling circumstances to
16 warrant a revision. In no case shall the duration of any phasing plan and schedule be extended
17 more than five years beyond the effective date of this Ordinance. The Planning Commission shall
18 consider the following factors in determining whether to approve applications for revisions:

- 19 a. The extent to which any delay was caused by the action or inaction of the applicant as
20 opposed to other factors beyond the control of the applicant;
- 21 b. The amount of investment not including architectural and engineering costs made in the
22 project as of the date of the application for revision;
- 23 c. Any impact to the health and welfare of the County caused by the revision or any delay
24 associated therewith; and
- 25 d. Market conditions.

26 3. **Continuation of Project:** Project development may proceed in accordance with the plan approved
27 unless the approval expires by failure to act within the defined time periods as stated above. In the
28 case of expiration, re-approval shall be in conformity with all provisions of this Ordinance.

29 **27.5. Effect of Previous Regulations.**

30 To the extent that projects are grandfathered under this section, the provisions of Ordinance 02-01, as
31 amended and regulations in effect at the time of plan approval shall remain in full force and effect.

32 **27.6. Annual Update.**

33 An annual update of development commenced during the past year and plans for development in the
34 upcoming year shall be presented to the Planning Commission by the developer of the project.

1 **CHAPTER 28 AMENDMENTS**

2 Sections:

3 28.1 Purpose and Authority.

4 28.2 Submission Requirements for Applications for Amendments.

5 28.3 Review Procedures.

6 28.4 Action by Board of County Commissioners on Application.

7 28.5 Record.

8 28.6 Reconsideration of Defeated District Changes or Amendments.

9 **28.1. Purpose and Authority.**

10 1. **Purpose.** The purpose of this chapter is to provide a means for changing the text of this
11 Ordinance, changing the boundary of zoning districts on the Official Zoning Maps or approving a
12 floating zone.

13 2. **Authority.** The Board of County Commissioners may on its own motion, on application of the
14 owner(s) or contract owner(s) of a property proposed for change, or at the recommendation of the
15 Planning Commission supplement, modify, or repeal provisions of the text of this Ordinance or the
16 Official Zoning Maps. In cases of a petition for change of zoning to historic status, only the
17 landowner(s) may request such a change.

18 **28.2. Submission Requirements for Applications for Amendments.**

19 1. **Applications.** Any application for a zoning amendment shall contain specific information setting
20 forth the basis for granting the request. Any application must disclose the names and addresses of
21 all persons having legal or equitable interests in the property that is the subject of the application
22 for amendment, including shareholders owning more than 5 percent of the stock in a corporation
23 that has any interest in land involved in the application, excepting those corporations listed and
24 regularly traded on a recognized stock exchange.

25 2. **Ordinance Amendments Generally.** Any application to amend, supplement, modify, or repeal any
26 portion of this Ordinance shall be filed with the Planning Director in such form and accompanied
27 by such information and fees as may be required by the Planning Director. Amendments to the
28 Critical Area provisions of this Ordinance are subject to approval by the Chesapeake Bay Critical
29 Area Commission. Amendments to the Forest Conservation or Floodplain provisions of this
30 Ordinance are subject to approval by the Maryland Department of Natural Resources.

31 3. **Amendments to the Zoning Maps.** Every application for a zoning map amendment shall be
32 accompanied by a scale drawing showing the existing and proposed zoning district boundaries and
33 such other information as may be needed to properly locate and plat an amendment of the Official
34 Zoning Maps. Amendments to revise Critical Area maps are subject to approval by the
35 Chesapeake Bay Critical Area Commission.

36 **28.3. Review Procedures.**

37 1. **Review by Departments and Agencies.** Upon determination by the Planning Director that an
38 application is complete the application shall be promptly submitted for comment and review to
39 TEC agencies. Following notification that this administrative review is complete, the applicant
40 must request in writing that the Planning Director submit an application for amendment of the
41 Official Zoning Maps to the Planning Commission. For an amendment of the text of this
42 Ordinance, the administrative review shall be forwarded to the Board of County Commissioners,
43 who shall determine whether to seek a recommendation of the Planning Commission. For all
44 applications to amend the Official Zoning Maps and applications to amend the text of this
45 Ordinance for which recommendation is sought, the Planning Commission shall conduct a public
46 hearing according to the provisions of Chapter 21 and forward a recommendation to the Board of
47 County Commissioners.

1 2. **Review by Planning Commission.** The Planning Commission shall promptly consider
2 applications for amendment. The Commission shall conduct a public hearing for map
3 amendments and may conduct public hearings for all other amendments. Generally, within 60
4 days from its final hearing, the Planning Commission shall transmit its recommendations for
5 approval or disapproval to the County Commissioners.

6 **28.4. Action by Board of County Commissioners on Application.**

7 1. **Applicant Request for Public Hearing.** After the Planning Commission makes its formal
8 recommendation on applications to amend the Official Zoning Maps or on text amendments for
9 which such a recommendation is sought, or after the Board of County Commissioners determine a
10 recommendation of the Planning Commission is not necessary for an amendment of the text of this
11 Ordinance, the applicant must request in writing a public hearing on the application to be held by
12 the Board of County Commissioners. If the applicant does not make this request within 60 days
13 after the Planning Commission makes its recommendation or the Board of County Commissioners
14 make a determination that a recommendation of the Planning Commission is not necessary for a
15 text amendment, the applicant shall reapply and be treated as a new applicant.

16 2. **Public Hearing.** Before approving or disapproving any application for amendment, the Board of
17 County Commissioners shall hold at least one public hearing in accordance with the procedures
18 for notice and public hearings set forth in Chapter 21 of this Ordinance. At the sole discretion of
19 the Planning Commission and the Board of County Commissioners, such public hearing may be
20 held concurrent with the public hearing of the Planning Commission on the application.

21 **28.5. Record.**

22 The record of all amendments shall include the application, all documents or communications submitted
23 regarding the application, the recorded testimony from all public hearings held on the application, any
24 reports or communications to or from any public officials or agencies concerning the application, and the
25 final decision of the County Commissioners. The record shall be open to public inspection and shall be
26 maintained in the office of the Planning Director. The burden of proof for any proposed Ordinance change
27 shall be upon the applicant.

28 **28.6. Reconsideration of Defeated District Changes or Amendments.**

29 An application for amendment shall not be accepted for filing by the Planning Director if the application is
30 for the reclassification of all or any part of land that was the subject of any application for amendment that
31 was denied by the County Commissioners until 12 months from the date of denial.

CHAPTER 29 DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT (DRARA)

Sections:

- 29.1 Purpose.
- 29.2 Authority.
- 29.3 Applicability.
- 29.4 Contents of Development Rights and Responsibilities Agreement.
- 29.5 Referral to Planning Commission.
- 29.6 Public Hearing by Board of County Commissioners.
- 29.7 Amendment of Agreements.
- 29.8 Termination of Agreements; Suspension.
- 29.9 Applicable Laws, Regulations and Policies.

29.1. Purpose.

The purpose of this chapter is to provide an additional technique for land development consistent with the Comprehensive Plan as authorized by the Annotated Code of Maryland, which agreed upon obligations of the Board of County Commissioners shall be enforceable notwithstanding any provision of the St. Mary's County Procurement Manual, as amended from time to time. It is the further purpose of this chapter to enhance development flexibility, innovation and quality while ensuring protection of the public interest, health, safety and welfare.

29.2. Authority.

The Board of County Commissioners desires to exercise the authority granted by Section 13.01 of Article 66B, Annotated Code of Maryland, to authorize Development Rights and Responsibilities Agreements (DRARAs) generally.

29.3. Applicability.

Any person having a legal or equitable interest in real property in St. Mary's County may petition the Board of County Commissioners to enter into an agreement.

29.4. Contents of Development Rights and Responsibilities Agreement.

1. At a minimum a development rights and responsibilities agreements shall contain the following:
 - a. A lawyer's certification that the petitioner has either a legal or equitable interest in the property.
 - b. The names of all parties having an equitable or legal interest in the property, including lien holders.
 - c. A legal description of the property subject to the agreement.
 - d. The duration of the agreement; including any proposed phasing plans for the development.
 - e. The permissible uses of the real property.
 - f. The density or intensity of use.
 - g. The maximum height and size of structures.
 - h. Architectural elevation sketches.
 - i. Description of the plan approvals and permits required or already approved for the development of the property,
 - j. A statement that the proposed development is consistent with applicable development regulations, the Comprehensive Plan, and, if applicable, the Growth Area Plan.
 - k. A description of the conditions, terms, restrictions or other requirements determined by the County Commissioners or their designees to be necessary to ensure the public health, safety, or welfare.
- l. To the extent applicable, provisions for:

- 1 (1) Dedication or reservation of a portion of the real property for public or private
2 uses, and/or remote or off-site real property in which the petitioner has either
3 legal or equitable interest for public use including but not limited to wetlands or
4 forest mitigation banks, school sites, and recreation facilities or sites.
- 5 (2) Protection of sensitive areas.
- 6 (3) Preservation and restoration of historic structures, and
- 7 (4) Construction or financing of public facilities.
- 8 m. Provisions to the effect that the petitioner shall be responsible for attorney's fees, costs,
9 and expenses incurred by the County Commissioners in the event an agreement is
10 abandoned or breached by the petitioner.
- 11 n. A concept plan meeting the minimum requirements of Section 60.4 for site plans or a
12 sketch plan meeting the requirements of Section 30.5.3 of the subdivision regulations.
- 13 2. An agreement may fix the period in and terms by which development and construction may
14 commence and be completed, as well as provide for other matters consistent with this title,
15 including, but not limited to, phasing schedules and grandfather provisions.

16 **29.5. Referral to Planning Commission.**

17 Upon receipt of a petition, the Board of County Commissioners shall refer the petition to the Planning
18 Commission, which may conduct a public hearing, for a determination on whether the proposed agreement
19 is consistent with the Comprehensive Plan and, where applicable, any applicable growth area plans. The
20 Board of County Commissioners may not enter into an agreement until the Planning Commission
21 determines whether the proposed agreement is consistent with the Comprehensive Plan. The Board may,
22 however, choose not to accept the Planning Commission recommendation.

23 **29.6. Public Hearing by Board of County Commissioners.**

24 Before an agreement may be executed by the Board of County Commissioners, the Board shall hold a
25 public hearing on the agreement. Notice of the hearing shall be as provided in Chapter 21 of this
26 Ordinance. The notice shall contain the name of the petitioner, a brief description sufficient to identify the
27 property involved; a fair summary of the contents of the petition and the date, time and place of the public
28 hearing.

29 **29.7. Amendment of Agreements.**

- 30 1. Subject to paragraph (2) of this subsection and after a public hearing, the parties to an agreement
31 may amend the agreement by mutual consent.
- 32 2. The parties may not amend an agreement unless the Planning Commission determines the
33 proposed amendment is consistent with the Comprehensive Plan and, where applicable, any
34 growth area plan.

35 **29.8. Termination of Agreements; Suspension.**

- 36 1. The parties to an agreement may terminate the agreement by mutual consent.
- 37 2. After a public hearing, the Board of County Commissioners may suspend or terminate an
38 agreement if the Board determines that suspension or termination is essential to ensure the public
39 health, safety, or welfare.

40 **29.9. Applicable Laws, Regulations and Policies.**

- 41 1. Except as provided in paragraph (2) of this subsection, the laws, rules, regulations, and policies
42 governing the use, density, or intensity of the real property subject to the agreement shall be the
43 laws, rules, regulations, and policies in force at the time the parties execute the agreement.
- 44 2. If the County Commissioners for St. Mary's County determines that compliance with laws, rules,
45 regulations, and policies enacted or adopted after the effective date of the agreement is essential to
46 ensure the health, safety, or welfare of residents of all or part of the County, an agreement shall not
47 prevent the County Commissioners for St. Mary's County from requiring a person to comply with
48 those laws, rules, regulations, and policies, after 30 days notice to the land owner and a public
49 hearing.

1 **ARTICLE 3. ZONING DISTRICTS**

2 This article includes regulations for base zoning districts. Districts are organized to implement the policies
3 and action statements of the Comprehensive Plan.

4 **CHAPTER 30 ESTABLISHMENT OF DISTRICTS**

5 Sections:

- 6 30.1 Purpose.
- 7 30.2 Relation to Comprehensive Plan.
- 8 30.3 Establishment of Districts.
- 9 30.4 Purposes of Base Districts.
- 10 30.5 Purposes of Special Districts.

11 **30.1. Purpose.**

12 The purpose of this chapter is to establish zoning districts that will implement the land use concept and the
13 goals and objectives of the Comprehensive Plan.

14 **30.2. Relation to Comprehensive Plan.**

15 Comprehensive Plan goals, objectives, policies, and land use concepts for designated areas are hereby
16 incorporated by reference for the purpose of interpreting legislative intent and providing guidance for
17 administration of this Ordinance. The Comprehensive Plan identifies the following “planning area”
18 designations:

19 1. **Growth Areas**

- 20 a. *Development Districts:* Lexington Park, Leonardtown
- 21 b. *Town Centers:* Charlotte Hall, New Market, Mechanicsville, Hollywood, and Piney Point
- 22 c. *Village Centers:* Callaway, Chaptico, Clements, Loveville, Ridge, St. Inigoes and Valley
23 Lee

24 2. **Rural Areas**

- 25 a. *Rural Preservation Districts*
- 26 b. *Rural Service Centers:* Budds Creek, Avenue, Helen, Oraville, St. James, Park Hall, and
27 Dameron
- 28 c. *Rural Commercial Limited*

29 3. **Protected Areas**

- 30 a. *Neighborhood Conservation Districts*
- 31 b. *Resource Protection Areas*

32 As shown in Table 30.3, base districts are herein established to implement the planning areas of the
33 Comprehensive Plan. These districts designate the desired development types in this Ordinance. Special
34 districts modify or provide additional regulation of the base district. The Official Zoning Maps identify the
35 specific areas to which the base and special district regulations apply.

36 **30.3. Establishment of Districts.**

37 Zoning districts are hereby identified in Table 30.3A, established in order to:

- 38 1. Allow, regulate, and restrict the location and use of buildings and land for agriculture, forestry,
39 aquaculture, trade, industry, residence, parks and recreation, transportation, communications and
40 public facilities, and other purposes.
- 41 2. Allow, regulate, and restrict the location, height and size of buildings and structures, the size of
42 yards, setbacks, and other open spaces, and the density of population;
- 43 3. Establish site development and design standards and requirements for adequate public facilities
44 and services.

45 Special districts identified in Table 30.3B include corresponding overlay districts and floating zones
46 established to add to or modify the regulation of the base zoning districts.

1 **Table 30.3A: Base and Zoning Districts**

Base Districts	Zoning Districts
Rural and Residential Districts	Section: 31.1 Rural Preservation District (RPD) Section: 31.2 Rural Service Center (RSC) Section: 31.3 Rural Commercial Limited (RCL) Section: 31.4 Residential, Low Density (RL) Section: 31.5 Residential, Low Density – Transitional (RL-T) Section: 31.6 Residential, High Density (RH) Section: 31.7 Residential, Neighborhood Conservation (RNC)
Commercial and Mixed Use Districts	Section: 31.8 Residential Mixed Use (RMX) Section: 31.9 Village Center Mixed use (VMX) Section: 31.10 Town Center Mixed use (TMX) Section: 31.11 Downtown Core Mixed Use (DMX) Section: 31.12 Corridor Mixed Use (CMX) Section: 31.13 Community Commercial (CC)
Industrial and Office Districts	Section: 31.14 Office and Business Park (OBP) Section: 31.15 Industrial (I)
Commercial Marine Districts	Section: 31.16 Commercial Marine (CM)

2 **Table 30.3B: Special Districts**

Special Districts	Overlay Districts and Floating Zones
Overlay Districts	Chapter 41, Critical Area (IDA, LDA, RCA) Chapter 42, Historic Resources (H) Chapter 43, Air Installations Compatible Use Zones, (AICUZ), and Airport Environs, (AE), Zones
Floating Zones	Chapter 44, Planned Unit Development (PUD)

3 **30.4. Purposes of Base Districts**

4 The purposes of the base districts shall be considered when requests for conditional use, rezoning, floating
 5 zone approvals, or variances from the provisions of this Ordinance are made.

- 6 1. The purposes of the **Rural Districts** are to:
- 7 a. Preserve prime farm-land, timber-land, and mineral resource land and encourage resource
 8 based industries agriculture, forestry, mining, fisheries, aquaculture, and tourist-oriented
 9 and outdoor recreation businesses.
 - 10 b. Accommodate land-intensive rural industrial activities outside growth areas.
 - 11 c. Limit form, type and extent of development in rural areas in order to conserve the land
 12 and resource base needed to maintain and support preferred land uses.
 - 13 d. Permit low-density residential development that is designed to preserve or enhance the
 14 County's rural character.
 - 15 e. Allow home occupations and supplemental income-producing activities, subject to
 16 standards, at a scale and intensity that do not unduly change the character of the area.
 - 17 f. Allow continuing non-conforming commercial and residential activities on existing
 18 parcels throughout the district but limit their expansion or creation outside of crossroads
 19 areas designated or traditionally used for such activities.
 - 20 g. Provide for continuation of commercial uses and accommodate new construction of
 21 commercial uses in specifically designated areas where such uses and/or commercial
 22 zoning predate the Comprehensive Plan and where such continuation or construction
 23 would not detract from the rural character of the area.
- 24 2. The purposes of **Residential Districts** are to:
- 25 a. Provide for residential development consistent with the Comprehensive Plan.
 - 26 b. Encourage cluster design that preserves open space.

- 1 c. Emphasize quality of life in developing a variety of community types by:
- 2 (1) Providing opportunities for a variety of housing types throughout the County;
- 3 and
- 4 (2) Promoting open space-oriented site designs, waterfront access, and a mix of
- 5 private and public services, facilities, and amenities; and
- 6 (3) Promoting safe, affordable, and energy-efficient housing stock; and
- 7 (4) In growth areas, accommodating mixed use communities that offer housing,
- 8 employment, transportation, shopping, recreation and education with reduced
- 9 need for automobile travel.
- 10 d. Allow home occupations and supplemental income-producing activities, subject to
- 11 standards, at a scale and intensity that do not unduly change the character of the
- 12 neighborhood.
- 13 e. Allow for the provision of services and facilities needed to accommodate planned
- 14 population densities.
- 15 3. The purposes of **Commercial and Mixed Use Districts** are to:
- 16 a. Provide and protect land within growth areas for commercial and mixed use development
- 17 consistent with the Comprehensive Plan.
- 18 b. Accommodate a central core with mixed uses surrounded by larger intermixed blocks of
- 19 residential, commercial, industrial, and business uses in growth areas by:
- 20 (1) Accommodating infill development with standards that correct inefficient
- 21 transportation and land use patterns; and
- 22 (2) Avoiding new strip development along the principal roadways.
- 23 c. Encourage cluster design that preserves open space and environmentally sensitive lands.
- 24 d. Encourage adaptive reuse of historic structures, and protect and incorporate historic
- 25 landscapes into site designs.
- 26 e. Provide standards for landscaping, site and building design, signage, access, lots
- 27 coverage and open space that foster efficient use of land and urban development patterns.
- 28 f. Allow for the provision of services and facilities needed to accommodate scale and
- 29 intensity of planned development.
- 30 4. The purposes of the **Industrial and Office Districts** are to:
- 31 a. Provide and protect areas for industrial and office development consistent with the
- 32 Comprehensive Plan.
- 33 b. Accommodate new and existing technology-based and other industries and businesses in
- 34 campus settings within the growth areas with adequate infrastructure and facilities, and
- 35 provide for nearby services for employees.
- 36 c. Allow for the provision of services and facilities needed to accommodate planned
- 37 employment densities.
- 38 5. The purposes of the **Commercial Marine Districts** are to:
- 39 a. Accommodate and protect areas for commercial marine activities consistent with the
- 40 Comprehensive Plan.
- 41 b. Require compatibility between commercial marine and water-dependent facilities and
- 42 activities and surrounding sensitive environmental resources or adjacent uses.
- 43 c. Provide for continued and expanded fisheries, aquaculture, publicly accessible facilities
- 44 for recreational boating and fishing activities, and tourist-oriented services and facilities
- 45 with waterfront access.
- 46 d. Allow for the provision of services and facilities needed to accommodate new or
- 47 expanded commercial marine activities and waterfront businesses.

1 **30.5. Purposes of Special Districts.**

2 The purpose of a particular special district shall be considered when requests for floating zone or overlay
3 district approvals or variances from the provisions of an overlay district or floating zone are made.

4 1. The purpose of **Overlay Districts** is to:

5 a. Provide specific additional regulations for the protection of existing land uses and natural
6 resources, and to maintain compatibility between adjacent uses.

7 2. The specific purposes of **Floating Zones** are to:

8 a. Allow discretionary review of development proposals by providing flexibility in existing
9 regulations in exchange for meeting or exceeding Comprehensive Plan goals for
10 enhanced site and building design, efficient use of land, increased environmental
11 protection, improved amenities and services and coordinated pedestrian, bicycle and
12 vehicular circulation systems.

13 b. Achieve efficient land use patterns while permitting creative and innovative approaches
14 to the development of rural, residential, commercial and industrial land.

1 **CHAPTER 31 ZONING DISTRICTS**

2 Sections:

- 3 31.1 Purpose of the Rural Preservation District (RPD).
- 4 31.2 Purpose of the Rural Service Center District (RSC).
- 5 31.3 Purpose of the Rural Commercial Limited District (RCL).
- 6 31.4 Purpose of the Residential, Low-Density District (RL).
- 7 31.5 Purpose of the Residential, Low-Density – Transitional District (RL-T).
- 8 31.6 Purpose of the Residential, High-Density District (RH).
- 9 31.7 Purpose of the Residential Neighborhood Conservation District (RNC).
- 10 31.8 Purpose of the Residential Mixed Use District (RMX).
- 11 31.9 Purpose of the Village Center Mixed Use District (VMX).
- 12 31.10 Purpose of the Town Center Mixed Use District (TMX).
- 13 31.11 Purpose of the Downtown Core Mixed Use District (DMX).
- 14 31.12 Purpose of the Corridor Mixed Use District (CMX).
- 15 31.13 Purpose of the Community Commercial District (CC).
- 16 31.14 Purpose of the Office and Business Park District (OBP).
- 17 31.15 Purpose of the Industrial District (I).
- 18 31.16 Purpose of the Commercial Marine District (CM).

19 **31.1. Purpose of the Rural Preservation District (RPD).**

20 The regulations of Rural Preservation Districts are intended to foster agricultural, forestry, mineral resource
21 extraction, and aquacultural uses and protect the land base necessary to support these activities. Low-
22 density residential development in this type of district is permitted subject to performance standards that
23 maintain the rural character of the district in recognition of the fact that a full range of public facilities is
24 not provided or planned. The farmer has the right to farm without being restricted by neighboring
25 residential areas. Restricted hours of operation for farm equipment, restricted odor-producing fertilizers, or
26 mandatory noise reductions may not be imposed on farmers in an RPD zoning district. The general intent
27 of the district is to encourage farming without undue burden on the landowner. In accordance with these
28 intentions, the following provisions for the protection of agricultural uses will apply:

- 29 (1) Any farm use of land is permitted.
- 30 (2) Operation, at any time, of machinery used in farm production or the primary
31 processing of agricultural products is permitted.
- 32 (3) Normal agricultural activities and operations in accordance with good husbandry
33 practices, which do not cause bodily injury or directly endanger human health,
34 are permitted and preferred activities, including activities that may produce
35 normal agriculture related noise and odors.
- 36 (4) The sale of farm products produced on the farm where the sales are made is
37 permitted.

38 **31.2. Purpose of the Rural Service Center District (RSC).**

39 The regulations for the Rural Service Center district provide for crossroads commercial, retail, and business
40 development at designated locations within the County that have traditionally provided very localized
41 services to support agricultural activity and serve rural residents. The RSC designation provides sites for
42 infill development at commercial nodes in the rural areas, consistent with the Comprehensive Plan.
43 Mapped locations are at crossroads in Avenue, Budds Creek, Dameron, Helen, Oraville, Park Hall, and St.
44 James.

45 **31.3. Purpose of the Rural Commercial Limited District (RCL).**

46 The regulations for the Rural Commercial Limited District accommodate existing, small-scale commercial
47 uses serving localized markets in the County that are scattered along the highways and, in some cases,
48 clustered at intersections. Where such existing uses are compatible in scale with the character of the rural
49 area, and are devoted to a local market, their continued operation and opportunity for reasonable expansion

1 is consistent with the policies of the Comprehensive Plan. RCL districts provide for the continuation and
2 limited expansion of such uses.

3 **31.4. Purpose of the Residential, Low-Density District (RL).**

4 The regulations for the Residential Low-Density District are intended to provide for low to medium density
5 residential development in areas designated in the Comprehensive Plan. Compatible institutional uses are
6 allowed, subject to appropriate standards.

7 **31.5. Purpose of the Residential, Low-Density – Transitional District (RL-T).**

8 The regulations for the Residential, Low-Density – Transitional District are intended to protect community
9 character and provide for low density residential development with substantial accommodation for
10 preservation of open space or forest retention for those areas where Development Districts meet Rural
11 Preservation Districts, thus fostering a transition from one area to the other.

12 **31.6. Purpose of the Residential, High-Density District (RH).**

13 The regulations for the Residential High-Density district are intended to provide opportunities for high-
14 density residential development, accessory uses and higher intensity residential services such as day care.
15 Standards promote clustered development while providing additional open space areas for common use by
16 local residents and the adjacent community.

17 **31.7. Purpose of the Residential Neighborhood Conservation District (RNC).**

18 The regulations for the Residential Neighborhood Conservation District are intended to preserve the
19 character of established neighborhoods while providing opportunities for infill development that is
20 consistent with and enhances this prevailing character. All other standards having been met, RNC lots in
21 growth areas may be resubdivided to the base density of the RNC. TDRs may be used to increase density
22 in growth areas. No resubdivision of any lot of record shall be permitted in an RNC outside growth area.

23 **31.8. Purpose of the Residential Mixed Use District (RMX).**

24 The regulations for the Residential Mixed Use District provide opportunities for residential, office,
25 personal, and business development and services subject to standards that will ensure land use
26 compatibility with adjacent residential areas.

27 **31.9. Purpose of the Village Center Mixed Use District (VMX).**

28 The regulations for the Village Center Mixed Use District provide opportunities for residential
29 development and compatible commercial development at locations and at a scale designated by the
30 Comprehensive Plan as village centers. This type of district is not intended to create an urban character.

31 **31.10. Purpose of the Town Center Mixed Use District (TMX).**

32 The regulations for the Town Center Mixed Use District provide opportunities for residential and
33 commercial development within town centers, consistent with the Comprehensive Plan. Standards are
34 intended to create an urban character and make the core area safe, pedestrian friendly, and visually
35 attractive.

36 **31.11. Purpose of the Downtown Core Mixed Use District (DMX).**

37 The regulations for the Downtown Core Mixed Use District provide sites for a broad range of uses within
38 the core of Lexington Park, consistent with the Comprehensive Plan and the Lexington Park Plan.
39 Standards are intended to create an urban character, make the core area safe, pedestrian friendly and
40 visually attractive.

41 **31.12. Purpose of the Corridor Mixed Use District (CMX).**

42 The Corridor Mixed Use District provides sites for a broad range of uses within transportation corridors in
43 growth areas, consistent with the Comprehensive Plan. Standards are intended to accommodate auto-
44 oriented uses but also create a viable, visually attractive environment.

45 **31.13. Purpose of the Community Commercial District (CC).**

46 The Community Commercial District provides for large-scale, and clustered commercial and retail
47 businesses primarily intended to serve the needs of County residents, workers and visitors on lots where
48 both public water and sewer services are provided.

49 **31.14. Purpose of the Office and Business Park District (OBP).**

50 The Office Business Park District provides sites for offices, research and development facilities, limited
51 industrial facilities, and supporting commercial uses in a campus setting.

52 **31.15. Purpose of the Industrial District (I).**

53 The regulations for the Industrial District provide and protect sites for industrial use and office uses.

- 1 **31.16. Purpose of the Commercial Marine District (CM).**
2 The Commercial Marine District provides and protects shoreline sites for a full range of marine sales and
3 services, including marinas, dry boat storage, boat-yards, boat and equipment sales and rentals, marine-
4 related retail sales, yacht clubs, visitor accommodations, food and beverage sales and eating and drinking
5 establishments.

1 **CHAPTER 32 PROPERTY DEVELOPMENT REGULATIONS**

2 Sections:

- 3 32.1 Basic Standards.
4 32.2 Modifications to Basic Standards.
5 32.3 Supplemental Development Standards.

6 **32.1. Basic Standards.**

7 Schedule 32.1 prescribes basic development regulations for zoning districts. Schedule 32.1 sets forth density and
8 development standards for residential development in a Rural Preservation District (RPD). Supplemental site regulations
9 applicable to all districts are included in Article 6, Site design Standards and Approvals. Site Development and Resource
10 Protection Standards are included in Article 7.

11 **32.2. Modifications to Basic Standards.**

12 Schedule 32.2 identifies modifications that can be used to increase intensity of residential and non-residential
13 development through the use of enhanced site and architectural design, transfer of development rights, and provision of
14 affordable housing. This schedule reduces existing requirements in order to allow greater flexibility in site design and
15 building configuration.

16 **32.3. Supplemental Development Standards.**

17 1. ***Affordable Housing Standards.***

- 18 a. *Household Income Qualifications.* To qualify for a residential density increase for offering affordable
19 housing, at least 12 percent, but not more than 25 percent, of the units in the proposed development
20 shall be reserved for a minimum of 15 years for lower income households. Lower income households
21 are defined as those whose gross income is no greater than 50 percent of the County's median
22 household income for the prior year, as reported by the U.S. Department of Housing and Urban
23 Development or the State of Maryland.
- 24 b. *Location and Design of Lower Income Units.* Lower-income units shall be reasonably dispersed
25 throughout the project and shall be comparable with other units in appearance, use of materials, and
26 finish quality.

27 2. ***Setback from Mandatory Buffers.***

- 28 a. *Front, rear, and side setbacks* for all lots created after the effective date of this Ordinance are as shown
29 in Schedule 32.1 and shall apply from the edge of any road right-of-way and from any Sensitive Areas,
30 as defined in Chapter 71.
- 31 b. *Front, rear, and side setbacks* on lots existing prior to the effective date of this Ordinance shall apply
32 from the edge of any road right-of-way and from any Sensitive Areas, as defined in Chapter 71, except
33 when an application leaves less than 15,000 sq. ft. of the lot buildable or, where public or community
34 water and sewer are available, less than 5,000 sq. ft. of the lot remains. In these cases, setbacks shall be
35 applied from the property line provided there shall be no encroachment or disturbance into the Sensitive
36 Areas, as defined in Chapter 71.

37 3. ***Cluster Development Standards.***

- 38 a. A residential cluster development encourages and permits variation in developments by allowing
39 variation in lot size, lot dimensions, and lot coverage from that which is normally required in the
40 applicable zoning district. Dwelling units are concentrated in a selected area or selected areas of the
41 development tract in order to provide natural habitat or other open space uses (including agriculture) on
42 the remainder of the tract.
- 43 b. The minimum site area for any cluster development shall be three (3) acres unless adjoining similar
44 residential development.
- 45 c. A structure containing three (3) or more dwelling units in a cluster development shall be a minimum of
46 75 feet from the boundary of the site where the site adjoins a single-family dwelling development.
- 47 d. Minimum lot size for a single-family detached dwelling shall be 6,000 square feet.
- 48 e. Proposed residential cluster developments must obtain preliminary plan approval or site plan approval
49 from the Planning Commission before proceeding to final approval.

1 4. ***Alternative Open Space Standards in the RL, RH, and RMX Zones.***

2 The 50% minimum open space requirement may be reduced in the RL, RH and RMX zones, to an amount determined by
3 the Planning Commission that is not less than 30%, when:

4 a. The applicant is providing affordable housing in compliance with Section 32.3.1; or

5 b. The applicant is providing workforce housing in compliance with the Workforce Housing Policy
6 adopted by the Board of County Commissioners.

7 5. ***Implementation of the County Annual Growth Policy.***

8 The Board of County Commissioners have established an Annual Growth Policy for the county that limits the total
9 number of dwelling units that may be approved in each year within planned growth areas and planned rural areas.

10 Approval for development density and intensity in accordance with schedules 32.1 and the timing of approvals for
11 development shall be in accordance with the approved growth policy.

1 **Schedule 32.1 Development Standards**

	RPD	RSC	RCL	RL-T	RL	RH	RNC ⁹	RMX	VMX	TMX	DMX	CMX	CC	OBP	I	CM
Residential Density																
Base Density (units per acre)	1 dwelling per 5 acres subject to footnote 13	none ¹⁴	none ¹⁴	1 ¹⁶	1	10	1	1	1	1	20	1	none	none	none	none ¹⁴
Maximum/Density (units/acre) See Table 32.2 for methods to achieve Residential Density Increase	1 dwelling per 3 acres	none	none	3 ¹⁶	5	20	2	5	5	5	20	15	none	none	none	none
Development Intensity (per acre)																
Base Floor Area Ratio	0.05	0.10	0.25	0.10	0.10	0.30	0.10	0.20	0.20	0.20	0.60	0.40	0.35	0.40	0.40	0.20
Maximum Floor Area Ratio (see Table 32.2 for methods to achieve FAR Increase) (per acre)	0.15	0.30	0.30	0.20	0.20	0.30	0.15	0.35	0.45	0.60	none	0.50	0.50	0.50	0.60	0.30
Minimum Lot Dimensions	These standards do not apply for detached, townhouse and multi-family development in accordance with cluster provisions in Section 32.3.3.															
Minimum Lot Area	none	none	none	None ¹⁷	none	none	none	none	none	none	none	none	none	none	none	1ac
Width	150	none	none	75	75	none	75	none	80	80	none	80	175	100	100	none
Depth	160	none	none	100	100	60	100	none	100	100	none	100	300	200	200	none
Frontage	75	none	none	50	50	none	50	none	50	50	none	50	100	none	none	none
Principal Structure Minimum Setbacks^{1,2,3,4}																
Minor Collector or lesser	25	25	25	25	25	25	25	25	25	25	5	20	25	25	25	25
Major Collector	35	35	35	35	35	35	35	35	35	35	10	30	35	35	35	35
Arterial	50	50	50	50	50	50	50	50	50	50	50/110 ²	50	50	50	50	50
Side ⁴	15	15	15	10	10	10	10	15	15	15	10	10	20	20	25	25
Rear ⁴	20	20	20	20	20	20	20	25	25	25	20	20	30	25	25	25
Minimum Separation between detached principal structures on a site	2 times the side yard setback															
Other Requirements																
Maximum footprint of a Commercial structure on a site by right	5,000	10,000	15,000	20,000	20,000	none	5,000	20,000	15,000	30,000	50,000	50,000	50,000	50,000	none	none
Maximum footprint of a Commercial structure on a site	6,250 See Footnote 11	12,500	25,000	25,000	25,000	none	6,250	25,000	25,000	50,000	See Footnote 5, 6	See Footnote 5, 6	See Footnote 5, 6	See Footnote 5, 6	none	none
Maximum Height ¹²	40 ⁷	40 ⁷	40 ⁷	40 ⁷	40 ⁷	75	40 ⁷	40 ⁷	40 ⁷	40 ⁷	100	100	100	100	100	60
Minimum Landscaping	none	15%	15%	none	none	15%	20%	20%	20%	20%	20%	20%	none	20%	20%	20%
Minimum Open Space¹⁰																
Useable Open Space for Public and Semi-public or Commercial Use Classifications, (percent of development envelope)	5%	none	none	5%	5%	5%	none	5%	5%	2%	2%	5%	5%	5%	2%	none
Useable Open Space (sq. ft. per residential unit in developments with 25 units or more)	2000	none	none	2000	2000	200	none	2000	200	200	200	200	none	none	none	none
Undeveloped Open space	50%	none	none	50%	50% ¹⁵	50% ¹⁵	50%	50% ¹⁵	20%	20%	15%	20%	20%	none	none	none

07/31/12
07/31/12

2

Footnotes

1. Lots fronting on roads identified as existing or future Arterial Roads in the 2020 Transportation Plan in the Comprehensive Plan shall meet the 50 foot setback.
2. On Great Mills Road (Route 246), from Route 235 to Saratoga Street the minimum front yard setback is 10 feet and the maximum shall be 25 feet.
3. Permitted obstructions in required yards are defined in Section 61.7.
4. In CMX, 50 feet shall be added to a rear and/or side yard setback where the abutting property is an RL or RNC zone, and the required buffer yard shall be twice the depth and plantings of a "C" buffer. Modification of Side or Rear Setback requirements defined in Section 61.7.4. Minimum Accessory structure setback shall be 5 feet from a side or rear lot line.
5. By right footprint may be increased with TDRs by 2,000 sq. ft. per TDR up to 60,000 sq. ft.
6. Additional sq. ft. of footprint above 60,000 sq. ft. in the Development Districts may be achieved @ 1,000 sq. ft. per additional TDR.
7. Principal structures may be erected to a maximum height of 50 feet when the side and rear yards are increased 1 foot for each foot of height in excess of the height restrictions for the zone. Existing buildings constructed as of May 8, 2007 are not considered a non-conforming building height.
8. RESERVED.
9. In the RNC District, setback averaging, as defined in Chapter 91 Rules for Measurement, may be used to determine front yard requirements.
10. An open space credit may be granted as determined by the Planning Commission if a project is connected to, and located within ¼ mile of, an improved public park by a continuous sidewalk.
11. Auction houses may be increased to 20,000 square feet with TDRs in the RPD.
12. Height of all structures subject to site-by-site analysis for compliance with Chapter 43 AICUZ and AE height restrictions. Structures with a building height greater than 45 feet shall install an approved sprinkler system. Height of communication towers is exempt from height restrictions of Schedule 32.1 and regulated by the provisions contained in Chapter 51 of this ordinance.
13. TDR(s) required after initial residential lot or dwelling per Section 26.4.
14. One single-family dwelling is permitted per site.
15. Minimum undeveloped open space may be reduced in these zones per Section 32.3.4.
16. Density in the RL-T in the Critical Area shall not exceed 1 dwelling per 2 acres.
17. In the Critical Area, minimum lot size shall be 2 acres.

SCHEDULE 32.2 MODIFICATIONS TO DEVELOPMENT STANDARDS

		RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	OBP	I	CM
Methods for Achieving Residential Density Increase																	
Base Density Increase	Affordable housing (units per acre)	none	none	none	1.00	1.00	1.00	none	1.00	1.00	1.00	none	1.00	none	none	none	none
	Increase in units per acre with purchase of TDRs – See Section 26.4.2	See Section 26.4.2	none	none	2 ⁴	4	10	1 ¹	4	4	4	none	14	none	none	none	none
Methods for achieving Floor Area Ratio Increase																	
Added square feet per TDR		2,000	2,000	2,000	n/a	2,000	none	2,000	2,000	2,000	2,000	2,000 ²	2,000 ²	2,000 ²	2,000 ²	2,000	2,000
Added square feet or percent increase for design enhancements (cumulative footage not to exceed maximum FAR)	FAR increase for LEED Certified Site or Building Design	none	none	none	none	none	0.05	none	0.02	0.50	0.05	0.5	0.5	0.5	0.5	0.5	none
	FAR increase for LEED Silver Certified Site or Building Design	0.03	0.05	0.05	0.05	0.03	0.10	none	0.05	0.10	0.10	0.10	0.10	0.10	0.10	0.10	none
	FAR increase for LEED Gold Certified Site or Building Design	0.05	0.10	0.10	0.10	0.05	0.15	none	0.10	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15

1. TDR increase is possible only in growth areas.
2. Additional square feet of first floor "footprint" above 60,000 sq. ft. in development districts may be achieved @ 1,000 sq. ft. per TDR
3. In structure parking and structured parking shall not count toward FAR. Building height calculation shall exclude a single level of parking built within a building that also contains a principal use, except in the AICUZ.
4. Bonus density is not available in the Critical Area.
5. A bonus of one square foot for each square foot of amenity space provided, up to a maximum of 500 square feet per amenity, shall be provided for: (1) Outdoor seating areas, (2) Walking paths, (3) Public art, (4) Public gardens, (5) Plazas, (6) Water features, (7) Other amenity space approved by the Planning Director.

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.

35 **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.

-
- 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.

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

1 impacts associated with run-off from new impervious surfaces are minimized or
2 best management practices have been implemented, and c) on-site mitigation or
3 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

4 (2) For a lot of one acre or less in size, approved as a part of a subdivision or
5 planned unit development that received final county approval after December 1,
6 1985, impervious surfaces may not exceed 25 percent and the total impervious
7 surface of the entire subdivision or planned unit development may not exceed 15
8 percent:

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

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

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

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

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

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

-
- 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

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- 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

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- 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.
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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

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

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**

3

LAND USE CATEGORY	COMPATIBILITY ¹		
	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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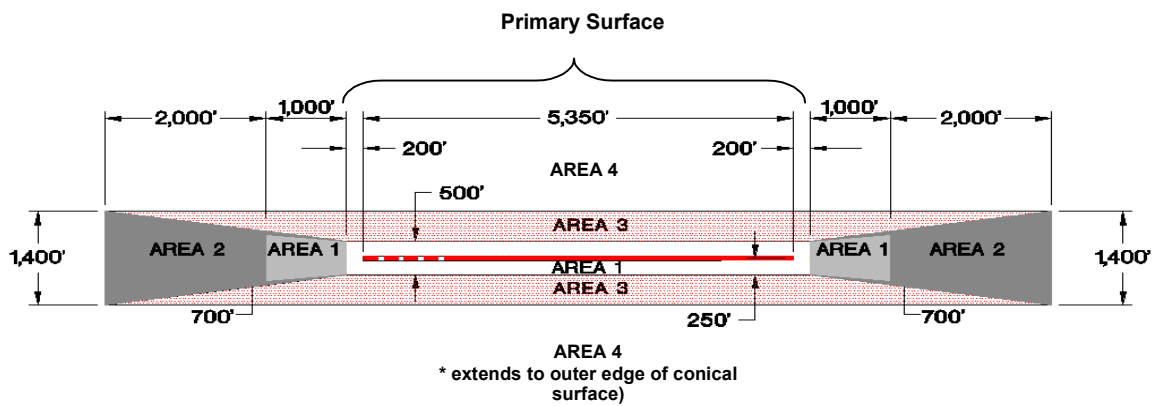
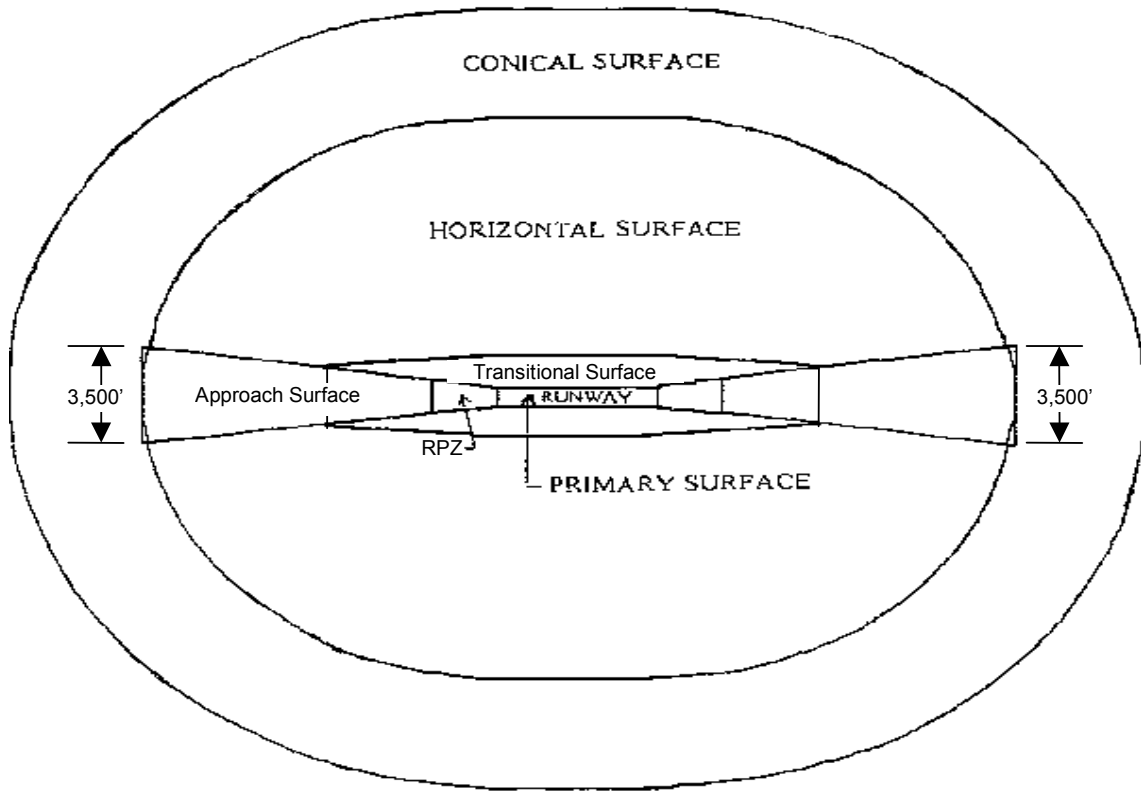
KEY TO FIGURE 43.3.B

- 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

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

(4) Market conditions.

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

44.5. Submission Requirements for a Development Plan.

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

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

(1) Vicinity map.

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

(3) Existing land uses of adjoining tracts,

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

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

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

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

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

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

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

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

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

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

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

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

a. Type and amount of land uses.

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,

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- 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.

1
2 **ARTICLE 5. REGULATION OF USES**

3 **CHAPTER 50 USE CLASSIFICATIONS**

4 Sections:

5 50.1 Purpose and Applicability.

6 50.2 Use Types Not Classified.

7 50.3 Prohibited Use Types.

8 50.4 Use Classifications, Use Types, and Location within Zoning Districts.

9 **50.1. Purpose and Applicability.**

10 This Chapter identifies the use classifications, lists and defines use types within each classification, and
11 identifies the zoning districts in which each use type may locate. Existing use types not located consistent
12 with this chapter are nonconforming.

13 1. Use classifications identify broad categories of uses for which similar regulations shall apply. Use
14 types identified within the classification are intended as examples of types of uses rather than
15 exhaustive lists. The Planning Director shall determine whether a specific use shall be deemed to
16 be within one or more use classification or not within any classification identified in this chapter.

17 2. Use types within each use classification describe one or more uses of land or activities having
18 similar characteristics, but do not list every use or activity that may fall appropriately within the
19 use classification. In addition, specific uses identified within the use types are intended as
20 inexhaustive examples of uses having similar characteristics that shall be specifically regulated
21 under this Ordinance as one use type.

22 **50.2. Use Types Not Classified.**

23 The Planning Director shall determine how to categorize a use type not listed in Schedule 50.4. The
24 Planning Director shall determine which use type is substantially similar to the proposed use. If the
25 Planning Director determines that there are no use types substantially similar to the proposed use, the
26 Planning Director shall determine that the proposed use is not permitted in any district. The Planning
27 Director's decision may be appealed to the Board of Appeals.

28 **50.3. Prohibited Use Types.**

29 The following identifies uses that are expressly prohibited within St. Mary's County:

30 1. Floating homes are prohibited in all zoning districts and local waters.

31 2. Private detention centers of all types are prohibited in all zoning districts.

32 3. Extraction of and processing of oil deposits for wholesale distribution, chemical or catalytic
33 manufacturing, chemical fabrication, gasoline processing, or refining of petroleum or petroleum
34 products are prohibited in all zoning districts. This prohibition does not apply to land and
35 buildings if they were used:

36 a. On or before July 23, 1974, for chemical or catalytic manufacturing, chemical
37 fabrication, gasoline processing, or refining of petroleum or petroleum products; or

38 b. On or after July 1, 1998, for manufacturing alcohol fuel.

39 4. Industrial manufacture of paper and paper products for wholesale distribution is prohibited in all
40 zoning districts.

41 **50.4. Use Classifications, Use Types, and Location within Zoning Districts.**

42 Refer to Schedule 50.4 to identify the use types and where they may locate within the County. The
43 schedule provides the following information:
44

1

Use Type Number	Use Classification
1-13	Agricultural Uses
14-23	Residential Uses
24-39	Public & Semi Public Uses
40-81	Commercial Uses
82-87	Industrial Uses
88-98	Transportation, Communication, Utility Uses
99-107	Marine Uses
108-124	Accessory Uses
125-129	Temporary Uses

- 2 1. **Use Classification Groups:** Agricultural, Residential, Public/Semipublic, Commercial, Industrial,
 3 Transportation/Communication/Utility, Marine, Accessory and Temporary.
- 4 2. **Use Types.** Uses identified in the description of each use type are intended as examples of types
 5 of uses rather than exhaustive lists. Use types are numbered to correspond with the use
 6 regulations found in Chapter 51.
- 7 3. **Location of Use Types.** Base zoning district columns (established in Chapter 30 of this
 8 Ordinance) in which letter designations are used to indicate where the use types are permitted (P),
 9 allowed subject to limitations (L), conditionally allowed subject to Board of Appeals approval (C),
 10 allowed only as part of a Planned Unit Development (PD), allowed only as an accessory to an
 11 approved use (A), allowed only as an accessory type use to an allowable use pursuant to Section
 12 11.2.4.b. (A) or not permitted (-).
- 13 4. **Intensity of Use.** Use intensity column that indicates the intensity of the use (high or low) for
 14 purposes of determining buffer requirements (refer to Section 63.3).
- 15 5. **Critical Area Uses.** Critical Area Overlay column in which letter designations are used to indicate
 16 the Critical Area Overlay Zone (RCA, LDA, IDA) in which use types may be located in
 17 accordance with Critical Area regulations, and which uses are either prohibited or significantly
 18 restricted (-) in the Critical Area in accordance with the standards of Chapter 51. Uses proposed in
 19 the Critical Area Overlay must be determined to be allowable under the base zoning district
 20 regulations. An applicant may seek growth allocation to obtain appropriate Critical Area Overlay
 21 zoning for a proposed use that is allowed in one or more of the Overlay Zones.
 22

1 **Schedule 50.4 Use Classifications, Use Types and Location within Zoning Districts**
2

Legend	P	Use is permitted in accordance with Chapter 51 General Standards
	L	Use is permitted in accordance with Chapter 51 General and Limited Standards
	C	Use is permitted in accordance with Chapter 51 General and Conditional Standards
	A	Use is permitted as accessory to an allowable use (See Section 11.2.4.b)
	PD	Use is permitted only within a Planned Unit Development subject to the review, conditions, and approval of the Board of County Commissioners
	-	Use is prohibited within the zone
	RCA	Use may be allowed in the Resource Conservation Area Overlay in accordance with the provisions of this Ordinance only if use is allowed in the base zoning district.
	LDA	Use may be allowed in the Limited Development Area Overlay in accordance with the provisions of this Ordinance only if use is allowed in the base zoning district.
	IDA	Use may be allowed in the Intensely Developed Area Overlay in accordance with the provisions of this Ordinance only if use is allowed in the base zoning district.
	X	In the Critical Area, new non-maritime industries may be permitted only in the IDA and then only if the facility or activity demonstrates that there will be a net improvement in water quality to the adjacent body of water.

Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
Agricultural Use Classifications																			
1. <i>Agricultural Industry, Major.</i>	Extensive processing of crop and animals products produced off site. This use type includes dairy processing plants, meat processing facilities, fertilizer manufacturers, and tanneries.	High	C	C	-	-	-	-	-	-	C	C	-	-	-	P	-	-	LDA IDA
2. <i>Agricultural Industry, Minor.</i>	Processing, drying or storage of crop and animal products, including minor dairy processing facilities and small scale grain mills.	High	P	P	-	-	-	-	-	-	P	P	-	-	-	P	-	-	RCA LDA IDA
3. <i>Animal Husbandry.</i>	Agricultural activity primarily engaged in raising farm animals or primary production of animal products, such as eggs or dairy products.	Low	P	P	-	P	P	-	-	-	P	P	-	-	-	-	-	-	RCA LDA IDA
4. <i>Aquaculture.</i>	Agricultural Activity primarily engaged in farming or culturing of finfish, shellfish, other aquatic plants or animals, or both. Use includes land or water based aquaculture that utilizes natural or man-made impoundments—lakes, and other natural or artificial water bodies or tanks. Activities may include hatching, cultivating, raising, and harvesting of aquatic plants and animals and maintenance or construction of necessary equipment, buildings, and growing areas. Excludes land- and water –based aquaculture activities that are not operated for profit—i.e. ponds stocked for private fishing, oysters grown in floats at private piers for consumption by the landowner, etc.	Low	P	-	-	L	L	-	L	L	L	L	-	-	-	P	-	P	RCA LDA IDA
5. <i>Crop Production and Horticulture.</i>	Agricultural activity primarily engaged in raising and harvesting of orchard crops, row crops, or field crops on an agricultural or commercial basis, including primary processing and packaging, but excluding canning and secondary food production. Includes horticultural operations engaged in cultivation of flowers, fruits, vegetables, or ornamental trees and shrubs on a wholesale basis with incidental retail sales. Includes buildings and other structures necessary for storing, and handling produce, grains, plants, etc. grown on site and for housing and maintaining equipment on site.	Low	P	P	P	P	P	-	-	P	P	P	P	P	-	P	P	-	RCA LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
6. <i>Farmer's Market.</i>	Retail sales of locally produced agricultural, fishery products and locally made handcrafted products by two or more sellers, on a property usually separate from that where the items for sale were grown or made.	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA
7. <i>Auction House.</i>	Wholesaling of locally produced agricultural and handcrafted goods, excluding livestock, to the highest bidder on a property usually separate from that where the items for sale were grown or made.	Low	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	RCA LDA IDA
8. <i>Roadside Stand.</i>	Display and sale of locally produced agricultural, fishery products and handcrafted products. This classification includes transient carts, vehicles, and stands used for the transport, storage and display of products operated more than 20 days per year as well as permanent roadside structures.	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA
9. <i>Silviculture.</i>	Agricultural Activity primarily engaged in care and cultivation of forest trees and timber harvesting.	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA
10. <i>Equestrian Facility, Major.</i>	Any building or structure over 30,000 s.f. that is used for an equestrian activity or event.	Low	C	-	-	C	C	-	-	-	C	C	-	-	-	-	-	-	RCA LDA IDA
11. <i>Equestrian Facility, Minor.</i>	Any building, structure or land area that is used for an equestrian activity or event.	Low	P	-	-	L	L	-	-	-	P	P	-	-	-	-	-	-	RCA LDA IDA
12. a. <i>Distillery.</i>	A facility operated under a Class 1 Manufacturer's license. May include an area or separate facilities for incidental administrative office functions, tours, product sampling, retail sales of products manufactured on the licensed premises and related merchandise, promotional events incidental to the distillery, and a kitchen facility for preparing and serving food at permitted events.	High	P	P	-	P	-	-	-	-	P	P	-	-	-	-	-	-	RCA LDA IDA
12. b. <i>Winery.</i>	A facility for processing and fermenting grapes and other fruits into wine; includes the bottling, aging, storing, and shipping of wine. May include an area or separate facilities for incidental administrative office functions, incidental retail sales of wine and related promotional items, wine tasting events, promotional events incidental to the winery, and a kitchen facility for preparing and serving food at permitted events. Promotional events may include wedding receptions, private parties, and other similar events.	High	P	P	-	-	-	-	-	-	P	P	-	-	-	-	-	-	RCA LDA IDA
12. c. <i>Farm Brewery.</i>	A facility operated under a class 8 Farm Brewery License. May include an area or separate facilities for product sampling, incidental administrative office functions; incidental retail sales of beer and related promotional items, promotional events held pursuant to a permit from the Comptroller, and kitchen facilities for preparing and serving food pursuant to the license.	High	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	RCA LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
13. <i>Agricultural Tourism.</i>	Activities conducted on a working farm or vineyard and offered to the public or to invited groups for the purpose of recreation, education or active involvement in the farm operation, and which are related to agriculture or natural resources and incidental to the primary operation on the site. Agricultural tourism activities include farm tours, hay rides, corn mazes, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above, and similar uses.	Low	A	A	A	A	A	-	-	A	A	A	A	A	-	A	A	-	RCA LDA IDA
Residential Use Classifications																			
14. <i>Dwelling Unit, Attached.</i>	A structure containing multiple dwelling units placed side by side sharing common walls, but each unit has a separate front and rear access. Includes townhouses and duplexes.	High	L	-	-	L	P	P	-	P	P	P	P	P	-	-	-	-	RCA LDA IDA
15. <i>Dwelling Unit, Detached.</i>	A detached structure containing a single dwelling unit. Dwelling may be either a site built structure meeting the St. Mary's County Building Code or a modular structure for residential occupancy, conforming to the requirements of the Maryland Industrialized Building Act. Note: Mobile homes are regulated separately under this Ordinance.	Low	P	P	P	P	P	P	P	P	P	P	P	P	-	-	-	P	RCA LDA IDA
16. <i>Dwelling Unit, Multi-Family Residence.</i>	A single structure that contains three or more dwelling units that share common entrances and exits. Classification includes structures commonly called apartments or condominiums.	High	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-	LDA IDA
17. <i>Group Home.</i>	Single family dwelling licensed or approved by a governmental agency for the purpose of providing special care or rehabilitation to the occupants. Group homes include residences for not more than eight persons including disabled persons, persons 60 years or older, and staff.	Low	L	A	A	P	P	P	P	P	P	P	P	P	-	-	-	A	RCA LDA IDA
18. <i>Halfway House.</i>	A residential care facility-licensed by the State of Maryland that provides for the supervision, counseling, training or treatment of residents to facilitate their transition from a correctional educational environment to independent living. This classification includes facilities for persons on probation, parole or early release.	Low	C	-	-	C	C	C	-	C	L	L	L	L	-	-	-	-	LDA IDA
19. <i>Institutional Residence.</i>	Shared living quarters in a single structure housing unrelated persons without separate kitchen or bathroom facilities for each room or unit. This classification includes congregate living services, rooming houses or boarding houses, barracks, dormitory, fraternity, sorority, convent, private residential club, seasonal agricultural worker housing and group homes housing more than eight persons.	High	A	-	-	L	L	P	-	P	P	P	P	-	-	-	-	-	LDA IDA
20. <i>Mobile Home.</i>	A manufactured structure certified by the US Department of Housing and Urban Development and bearing a HUD label (or if built prior to June 15, 1976, that complies with the Standard for Mobile Homes, NFPA 501, ANSI 119.1). Structure is transportable in one or more sections, which in traveling mode is 8 feet or more in width and 40 feet or more in length and which is built on a permanent chassis.	Low	P	-	-	L	L	-	L	-	-	-	-	-	-	-	-	-	RCA LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
21. <i>Mobile Home Park or Subdivision.</i>	A contiguous development of land under single ownership which has been planned and improved for the placement of mobile homes.	High	-	-	-	-	PD	PD	-	-	-	-	-	-	-	-	-	-	LDA IDA
22. <i>Residential Services.</i>	Establishments offering a wide range of housing, social, and medical services for those that cannot care for themselves and for the elderly. Includes facilities providing housing and/or custodial care services. Variety of residential choices include independent living facilities (cottages or apartments), assisted living services, life care or continuing care services and skilled or long-term nursing care. Facilities include a wide variety of residential accommodations, meal service, and support and health care services.	High	C	-	-	C	C	P	-	L	L	L	P	P	-	-	-	-	LDA IDA
23. <i>Single-Room Occupancy Units.</i>	Establishments providing rooms for lodging, typically on a weekly or monthly basis, with kitchen facilities in the room and weekly housekeeping service. Guest units may be reached either from a common entrance or directly from the outside of the building. Facilities may provide recreational amenities and dining service for residents. (See Lodging for facilities primarily renting on a daily basis)	High	-	-	-	-	-	-	-	P	P	P	P	-	-	-	-	-	LDA IDA
Public and Semi-Public Use Classifications																			
24. <i>Burial Grounds.</i>	Cemeteries, crypts, tombs, mausoleums or columbariums for the interment of deceased humans or animals. This classification does not include crematories or mortuaries.	Low	P	A	A	P	P	A	A	A	P	P	A	A	A	A	A	-	RCA LDA IDA
25. <i>Clubs or Lodges.</i>	Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs, and youth centers. Retail sales of food, beverage, incidentals or provisions of recreation and entertainment to other than club members and their guests shall require approval as an accessory restaurant, tavern, retail sales outlet, or recreation and entertainment facility.	High	C	P	P	C	C	C	C	C	P	P	P	P	P	-	-	A	LDA IDA
26. <i>Cultural Institutions.</i>	Nonprofit institutions displaying or preserving objects of interest in the arts or sciences. This classification includes visitors' centers, libraries, museums, and art galleries. Facilities may include auditoriums, exhibition halls, classrooms, administrative support facilities, concessions for visitors or any combination thereof.	Low	C	C	C	-	-	C	-	P	P	P	P	P	P	A	A	A	LDA IDA
27. <i>Day Care, Facility, Medical.</i>	Day care facility providing health care programs licensed or approved by a government agency to provide daytime health services and therapeutic recreational services to adults aged 18 and over with severe functional impairments.	Low	-	-	-	P	P	-	-	P	P	P	P	P	P	P	P	-	LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
28. <i>Day Care, Non-Medical.</i>	Day care facility licensed or approved by a governmental agency to provide non-medical care for nine or more children or adults on less than 24-hour basis. Includes nursery schools, preschools and social adult day care that provides a safe and supervised daytime program of meals, recreational activities, and socialization for adults 18 years or over who require a safe controlled environment but who do not meet the need for health care services required by the Medical Adult Day Service programs.	Low	P	P	P	P	P	P	C	P	P	P	P	P	P	P	P	-	LDA IDA
29. <i>Education Facility, College.</i>	Public or private institution of higher education providing curricula of a general, religious, or professional nature, typically granting recognized degrees. This classification includes establishments engaged in the teaching of vocational and technical skills.	High	C	-	-	C	C	C	-	C	P	P	P	-	C	L	L	-	LDA IDA
30. <i>Education Facility, School.</i>	Public or private facility for primary or secondary education, including elementary, middle and high schools and private institutions having a curriculum comparable to that required in the public schools in the State of Maryland.	High	C	-	P	P	P	P	L	P	P	P	C	-	C	C	-	-	LDA IDA
31. <i>Government Facility.</i>	Administrative, clerical, or public contact offices of federal, state or local government agencies. Also publicly owned and operated facilities such as fairgrounds and parking facilities, postal facilities, etc.	High	C	P	C	C	C	C	L	P	P	P	P	P	P	P	P	C	LDA IDA
32. <i>Hospital.</i>	Licensed general hospital with or without surgical facilities, primarily engaged in providing diagnostic and medical treatment to inpatients suffering from a wide variety of medical conditions. These facilities maintain inpatient beds and an organized staff of physicians and medical professionals to provide patient care services. Hospitals may also provide supporting outpatient, diagnostic, laboratory, and pharmacy services. This classification includes psychiatric and substance abuse hospitals and specialty hospitals licensed to provide diagnostic and medical treatment to inpatients suffering from a specific disease or medical condition.	High	-	-	-	-	-	-	-	-	L	L	L	-	-	-	-	-	LDA IDA
33. <i>Long-Term Care Facility.</i>	Primarily engaged in providing inpatient nursing and rehabilitative services to individuals requiring 24-hour nursing care for an extended period of time. This classification includes nursing homes, rest homes, and homes for the elderly with nursing care.	High	-	-	-	C	C	C	-	-	P	P	P	C	-	-	-	-	LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
34. <i>Outpatient Care Center.</i>	Licensed facility with medical staff primarily engaged in providing primary care and general or specialized outpatient care, including family planning, mental health, physical therapy, substance abuse, and kidney dialysis centers or clinics. No overnight patient or dormitory facilities shall be allowed. This classification includes HMO medical centers, freestanding ambulatory surgical and emergency centers (except hospitals), where surgical services are provided on an outpatient basis, and medical and diagnostic laboratories providing analytic or diagnostic services to the medical profession or to the patient on referral from a health practitioner.	High	-	L	L	-	-	-	-	P	P	P	P	P	P	P	P	-	LDA IDA
35. <i>Public Recreation Facility.</i>	Non-commercial park, playground, recreation facility, and publicly accessible open space. This classification includes fields for amateur and youth sports including, but not limited to, baseball, softball, football, and soccer fields. Golf courses are regulated separately under this Ordinance.	Low	P	-	P	P	P	P	L	P	P	P	P	P	-	P	P	P	LDA IDA
36. <i>Public Maintenance Facility.</i>	Facilities providing maintenance and repair services for public and utility vehicles and equipment, and materials storage areas. This classification includes utility and road maintenance depots, equipment service centers, and similar facilities.	High	P	-	C	-	-	-	-	C	C	C	C	-	P	P	-	-	LDA IDA
37. <i>Public Safety Facility.</i>	Facility for public safety and emergency services, including fire protection, rescue squad, police, and detention service. Includes private non-profit ambulance services	High	C	C	P	L	L	C	L	P	P	P	P	P	P	P	C	L	LDA IDA
38. <i>Religious Assembly.</i>	Religious worship and incidental religious education, not including private schools.	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	-	LDA IDA
39. <i>Rural Medical Practice.</i>	Facility with licensed professional staff engaged in general or specialized medical care and licensed by the Department of Health and Mental Hygiene.	High	L	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	LDA IDA
Commercial Use Classifications *NOTE: Any low intensity commercial use that exceeds 20,000 square feet shall be considered a high intensity use.																			
40. <i>Adult Entertainment.</i>	Establishments based primarily on materials and performances that depict, describe, or relate to sexual activities.	High	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	LDA IDA
41. <i>Animal Boarding.</i>	Shelter and care (feeding exercise, incidental medical care) for animals, including kennels and boarding facilities for domestic animals and pets and shelters for unwanted or abandoned animals.	Low *	P	P	L	A	A	-	-	-	L	L	-	L	L	-	-	-	LDA IDA
42. <i>Animal Hospital.</i>	Establishments for the medical and surgical treatment of domestic and farm animals, including grooming and boarding of animals for no more than 30 days if incidental to the hospital uses and limited to animals receiving medical care.	Low *	L	-	L	-	-	-	-	L	L	L	L	L	P	P	-	-	LDA IDA
43. <i>Animal Sales and Service.</i>	Establishment engaged in boarding, veterinary care, retail sales of domestic and farm animals, and services such as grooming, feed and tack stores. May include impregnation, gestation and birthing of domestic animals on a commercial basis. This classification does not include livestock auctions, or incidental sales from animal husbandry operations. (For breeding of farm animals, see <i>Animal husbandry</i>)	Low *	P	L	P	-	-	-	-	L	L	L	L	P	-	-	-	-	LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
44. <i>Campground and Day or Boarding Camp.</i>	Outdoor establishment improved, used or intended to provide camping sites designated for tents or providing servicing or temporary accommodation of one or more recreational vehicles used for travel, camping or recreational purposes. Dwelling and recreation facilities under single ownership used for programmed activities on a commercial basis.	High	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C/A	LDA IDA
45. <i>Commercial Parking Facility.</i>	Facility which offers parking to the public with or without a fee on parking lots which are not attendant to or required by another use. Fee use of a parking lot that is attendant to or required by another use is exempt from regulation as a commercial parking facility.	High	C	A	A	A	A	-	-	L	L	L	P	P	P	P	-	-	LDA IDA
46. <i>Conference Facility.</i>	Establishment providing meeting, training and catering kitchen space for lease or rent. Facility may be either a principal or an accessory use.	Low *	C	P	-	C	C	-	-	P	P	P	P	P	P	A	A	A	LDA IDA
47. <i>Construction Materials and Equipment Storage.</i>	Stockpiling and storage of construction vehicles, materials and equipment or commercial goods, and building contractors' yards.	High	L	-	-	-	-	-	-	-	-	-	-	-	-	L	-	C	LDA IDA
48. <i>Convenience Store.</i>	Retail establishment engaged in the sale of prepackaged food products, household items, newspapers and magazines and sandwiches and other freshly prepared foods for off-site consumption. Accessory fuel sales only in accordance with "Motor fuel sales".	Low *	-	L	L	-	-	-	-	-	P	P	P	P	P	-	P	A	LDA IDA
49. <i>Corporate Campus.</i>	Large office complex planned, developed and operated to serve a single corporate user in an integrated facility with special attention given to circulation, parking, utility needs, and provision of services and amenities to employees and clients.	High	PD	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	LDA IDA
50. <i>Fairgrounds and Flea Markets.</i>	Commercial establishments engaged in maintaining building(s) or open area in which buildings, parking facilities and open areas rented or otherwise provided for temporary uses including public or private shows or events or for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique. May include selling of goods at retail by businesses or individuals that are generally engaged in retail trade of new or secondhand, reclaimed or salvaged goods.	Low *	P	P	-	-	-	-	-	P	P	P	P	P	A	A	A	-	LDA IDA
51. <i>Financial Institution.</i>	Establishments including banks, credit union offices, savings and loans, or check cashing services, that provide central banking functions to individuals and businesses. This classification includes only those institutions engaged in the on-site circulation of cash money.	Low *	-	P	P	-	-	-	-	P	P	P	P	P	P	P	P	-	LDA IDA
52. <i>Funeral and Interment Service.</i>	Services involving the care, preparation or disposition of human or small domestic animal remains other than in a cemetery. Typical uses include crematories and mortuaries.	Low *	C	-	-	-	-	-	-	P	P	P	P	P	-	-	-	-	LDA IDA
53. <i>Golf course.</i>	Golf courses, country clubs, and connected facilities such as pro shops.	Low *	C	-	-	C	C	-	L	-	-	C	-	-	-	-	C	-	LDA IDA

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Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
54. <i>Laboratory.</i>	Facility engaged in routine processing, analysis and testing to provide medical, dental, photographic and technical laboratory services. Use class excludes laboratories primarily engaged in developing new methods for processing, analysis and testing (see Research and Development) and laboratories for other types of service (See Industry, limited.)	Low *	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	LDA IDA
55. <i>Lodging, Bed and Breakfast Inn.</i>	Visitor accommodations providing guest rooms for lodging on a less than weekly basis, with incidental eating and drinking service provided to lodgers and their guests.	Low *	P	P	P	P	C	-	-	P	P	P	P	-	-	-	-	P	RCA LDA IDA
56. <i>Lodging, Hotel and Motel.</i>	Visitor accommodations providing guest rooms for lodging, typically on a less than weekly basis, with no or minimal kitchen facilities in the guest units and daily housekeeping service. Guest units may be reached either from a common entrance or directly from the outside of the building. This classification may include accessory recreational facilities, or eating, drinking and banquet service, and conference facilities.	Low *	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	A	LDA IDA
57. <i>Maintenance and Repair Service, Major.</i>	Establishments engaged in maintenance and repair of industrial equipment and machinery and any other repair maintenance service that provides outdoor storage and work areas in addition to interior shop space for working on agricultural equipment and implements. Use may include the sale, installation, and service of related equipment and parts. Use excludes maintenance and repair of vehicles, boats or ships.	High	L	C	C	-	-	-	-	L	L	L	L	L	L	P	L	A	LDA IDA
58. <i>Maintenance and Repair Service, Minor.</i>	Repair and incidental sales of supplies for appliances, office machines, home electronic equipment, bicycles, tools, small engines or garden equipment. This classification includes furniture refinishing and repair, but excludes maintenance and repair of vehicles, boats or ships, or industrial equipment.	Low *	L	P	P	-	-	-	-	P	P	P	P	P	A	P	-	A	LDA IDA
59. <i>Manufactured Home Sales.</i>	Establishments engaged in the retail sale or leasing, delivery and installation of manufactured homes where models are located or purchasable products are stored on site.	High	-	-	-	-	-	-	-	-	P	P	C	P	-	A	-	-	LDA IDA
60. <i>Fuel Sales.</i>	Establishments engaged in the retail dispensing or sale of vehicular fuels and lubricants or household propane.	Low *	-	L	L	-	-	-	-	-	L	P	P	P	-	A	L	A	LDA IDA
61. <i>Motor Vehicle Maintenance Service, Major.</i>	Repair of automobiles, trucks, motorcycles, tractors, motor homes, and recreational vehicles, including the sale, installation, and servicing of related equipment and parts. This classification includes towing, engine repair, body and fender shops, vehicle painting, wheel repairs, tire sales and installation and/or repair of heavy trucks or construction vehicles, but excludes vehicle dismantling or salvage, tire re-treading and recapping. Includes facilities providing services for major repair and maintenance of recreational or commercial watercraft and marine engines. (Use may be accessory to a marina or boatyard use)	High	-	L	L	-	-	-	-	-	L	P	P	L	A	P	-	A	LDA IDA

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62. <i>Motor Vehicle Maintenance Service, Minor.</i>	Establishments where vehicle repairs and routine maintenance are made in enclosed bays and no vehicles are stored overnight, including quick-service oil, tune-up, tire, and brake and muffler shops. Washing, waxing, or cleaning of automobiles or similar vehicles. This classification excludes uses providing towing, engine repair, body and fender work, vehicle painting, or repair of heavy trucks or construction vehicles. May include accessory motor fuel sales.	Low *	-	L	L	-	-	-	-	-	L	P	P	P	P	P	-	A	LDA IDA
63. <i>Office.</i>	Offices of firm(s) or organization(s) providing professional, executive, management, or administrative services, such as architectural, data management, engineering, interior design, graphic design, real estate, insurance, investment, law offices, physicians, dentists or chiropractors, including medical/dental laboratories incidental to the medical office use, emergency medical care offices and communications facilities located entirely within buildings. This classification excludes financial institutions.	Low *	-	P	L	-	-	-	-	P	P	P	P	P	P	P	P	A	LDA IDA
64. <i>Personal Improvement Service.</i>	Establishment providing facilities for and instruction in, but not limited to, photography, fine arts, crafts, dance, music, gymnastics, martial arts, driving, scuba instruction, sailing, and weight management.	Low *	L	P	P	-	-	-	-	P	P	P	P	P	P	P	P	A	LDA IDA
65. <i>Personal or Business Service.</i>	Establishment providing a range of support activities for services and incidental sales to persons and businesses. This classification includes, but is not limited to, barber and beauty shops, watch and jewelry repair shops, engraving studios, picture framing shops; shops for tailors, shoe repair, dry cleaners, locksmiths, film developing, telegraph and fax services, mail receiving and boxes, delivery services and self-service laundries. Also includes janitorial or building maintenance services, construction services, document delivery, mail receiving and distribution, drafting, blueprinting, typesetting, copying, photographic or other similar services.	Low *	-	P	P	-	-	-	-	P	P	P	P	P	P	-	P	-	LDA IDA
66. <i>Personal Storage.</i>	Storage of goods and materials within an enclosed building with direct access to individual storage spaces and available to the general public for a fee. This classification does not include warehousing or wholesaling and distribution centers.	Low *	-	-	P	-	-	-	-	-	L	L	-	L	-	P	P	-	LDA IDA
67. <i>Recreational Facility, Major.</i>	This classification includes commercially operated indoor and outdoor recreation and entertainment facilities not specifically classified elsewhere that provide accommodations for any number of spectators or that occupy 15 acres or more of land. This use type includes, but is not limited to, live performing arts theaters, drive-ins, amphitheaters, sports arenas, amusement parks and water parks.	High	PD	-	-	-	-	-	-	-	-	-	-	PD	PD	PD	-	-	LDA IDA

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68. <i>Recreational Facility, Motor Sports. Facilities</i>	This classification includes any commercially operated motor sports facility including, but not limited to, a speedway, drag strip, raceway, oval track or road course. Also includes associated vehicle or equipment maintenance, repair or testing facilities.	High	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	LDA IDA
69. <i>Recreational Facility, Minor Indoor.</i>	This classification includes but is not limited to commercially operated indoor recreation and entertainment facilities such as bowling alleys, billiard parlors, ice or roller skating rinks, swimming pools, miniature golf, tennis or racquetball courts, movie theaters, health or fitness clubs and gyms, dance halls, and game centers including pinball arcades or establishments having five or more coin-operated electronics or mechanical game machines.	Low *	C	P	L	-	-	-	-	P	P	P	P	P	P	P	A	-	LDA IDA
70. <i>Recreational Facility, Minor Outdoor.</i>	This classification includes but is not limited to commercially operated outdoor recreation and entertainment facilities such as miniature golf or scale-model courses, skating rinks, swimming pools, tennis or racquetball courts, target shooting, golf driving or batting ranges.	High	C	L	-	-	-	-	-	P	-	P	L	L	L	L	-	-	LDA IDA
71. <i>Rental and Leasing.</i>	Establishments that provide tangible goods, such as vehicles, computers, construction or agricultural machinery and equipment, office equipment, power and hand tools, party supplies, and similar equipment, in return for a periodic rental or lease payment. Establishments that rent real property are classified under "offices."	High	-	P	P	-	-	-	-	-	P	P	P	P	P	P	-	L	LDA IDA
72. <i>Research and Development Service.</i>	Industrial or scientific research, including limited product testing. This classification includes electronic research firms, computer software development and pharmaceutical research laboratories, and laboratories primarily engaged in developing new methods for processing, analysis and testing for manufacturing or medical activities.	Low *	C	-	-	-	-	-	-	C	L	L	L	L	-	P	P	-	LDA IDA
73. <i>Restaurant.</i>	An establishment serving unpackaged food and beverages in a ready to consume state primarily to persons seated at counters or tables within the building. May include outside dining and sale of food prepared onsite and beverages for consumption off the premises. Where alcoholic beverages are sold in conjunction with sale of food for consumption on the premises and the sale of said beverages comprise less than 50% of the gross receipts. (See "Tavern" for establishments where sales of alcoholic beverages comprise more than 50% of gross receipts).	Low *	-	P	P	-	-	-	-	P	P	P	P	P	P	A	A	A	LDA IDA
2/20/14 73a. <i>Micro-brewery</i>	A facility located in or attached to a restaurant and operated under a Class 7 Micro-brewery License.	Low *	-	P	P	-	-	-	-	P	P	P	P	P	P	-	-	-	LDA IDA
2/20/14 73b <i>Pub-Brewery</i>	A facility located in or attached to a restaurant and operated under a Class 6 Pub-brewery License.	Low *	-	P	P	-	-	-	-	P	P	P	P	P	P	-	-	-	LDA IDA

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74. <i>Restaurant, Fast Food.</i>	An establishment that offers quick eat-in or take out food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, grilled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customers' table, food is not served at the same table or counter where the food is consumed, and food is generally served in disposable wrapping and containers.	High	-	L	C	-	-	-	-	-	L	L	P	P	L	-	-	-	LDA IDA
75. <i>Retail Sales or Service, Vehicles.</i>	Establishments engaged in the retail sale of new or used vehicles of all types-cars, trucks, recreational vehicles, motorcycles, ATV, bicycles, boats, watercraft, outboard motors. They may have show-rooms or open lots for selling vehicles, may provide repair and maintenance services and may sell related parts, accessories and equipment.	High	-	-	L	-	-	-	-	-	-	P	P	P	P	-	-	A	LDA IDA
76. <i>Retail Sales, General.</i>	Establishment engaged in high volume retail sales of goods and merchandise not specifically listed under another use classification. Use type includes department stores, discount stores, retail warehouses and shopping "clubs," home furnishing stores, pharmacies and supermarkets; retail plant nurseries and garden centers; and establishments engaged in retailing or wholesaling of building supplies or equipment including lumberyards and implement, tool and equipment sales. Use also includes any establishment listed under "Retail sales limited" that occupies a gross floor area in excess of 20,000 square feet. Except in the RCL.	Low *	-	P	P	-	-	-	-	-	P	P	P	P	P	-	-	-	LDA IDA
77. <i>Retail Sales, Limited.</i>	Establishment engaged in low volume retail sales of goods and merchandise not specifically listed under another use classification, including, but not limited to, specialty stores engaged in the retail sale of antiques, appliances, art, art supplies and services, new automotive parts and accessories, (excluding service and installation), bicycles, cameras, carpeting and floor coverings, coins, electronic equipment, hand-crafted items, hardware, hobby materials, jewelry, kitchen utensils, medical supplies, office supplies, paint and wallpaper, photographic supplies, records, sporting goods, toy stores, pawnshops, grocers, liquor stores or delicatessens.	Low *	-	P	P	-	-	-	-	A	P	P	P	P	P	A	A	A	LDA IDA
78. <i>Take-Out Food and Beverage Sales.</i>	Establishments offering prepared foods and beverages exclusively for off-site consumption. Includes delivery service, catering services, custom bakeries, and specialty shops, e.g. coffee shops and delicatessens.	Low *	-	P	P	-	-	-	-	A	P	P	P	P	A	A	A	A	LDA IDA
79. <i>Tavern.</i>	A licensed establishment serving alcoholic beverages in which 50% or more of gross receipts are from the sale of such beverages at retail for immediate consumption. Establishments may provide limited food and entertainment (primarily music) services	High	-	P	P	-	-	-	-	-	P	P	P	P	P	-	-	A	LDA IDA

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80. <i>Warehousing and Storage.</i>	Long- or short-term storage of goods or materials produced off-site within an enclosed building prior to their distribution to wholesale or retail outlets. Except in the OBP zone, includes wholesaling and distribution centers facilities with sales of goods on-site. Excludes 'discount clubs' and similar establishments engaged in retail sales of bulk items.	High	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	LDA IDA
81. <i>Wholesaling and Distribution Center.</i>	Indoor storage and sale of factory-direct merchandise and bulk goods. This use includes mail-order sales, importing and the wholesale sale of goods imported by the establishment and wholesale distribution. Excludes "discount clubs", and similar establishments engaged in retail sales of bulk items.	High	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	LDA IDA
Industrial Use Classifications																			
82. <i>Extractive Industry.</i>	Removal of natural materials from the surface or subsurface of the earth for sale or further processing. This classification includes sand and gravel mining and mineral extraction.	High	L	-	-	L	L	-	-	L	L	L	-	-	L	L	-	-	RCA LDA IDA
83. <i>Production Industry, Custom.</i>	On-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment. This classification includes custom carpentry, cabinet and small scale furniture making and woodworking, blacksmiths, welding, machine shops, sail lofts, small-scale sawmills for custom work.	Low	P	L	L	-	-	-	-	-	L	L	-	L	-	P	-	-	IDA X
84. <i>Production Industry, General.</i>	Manufacturing of products, primarily from extracted or raw materials, or bulk storage and handling of such products and materials. This classification includes food processing and packaging, furniture manufacture, laundry and dry cleaning plants, stonework and concrete products manufacture and large-scale sawmills and kiln drying operations.	High	L	-	-	-	-	-	-	-	-	-	-	-	-	L	-	-	IDA X
85. <i>Production Industry, Limited.</i>	Manufacturing of finished products or parts, primarily from previously prepared materials, and provision of industrial services; both within an enclosed building. This classification includes commercial bakeries and businesses engaged in processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, food processing, and vehicle/equipment services.	High	-	-	-	-	-	-	-	-	-	P	-	P	-	P	L	-	IDA X
86. <i>Slaughterhouse.</i>	Establishments engaged in killing and butchering livestock.	High	C	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	IDA X
87. <i>Wrecking and Salvage.</i>	Storage or dismantling of inoperative vehicles, machinery, or other goods. Objects may either be displayed as individual items or assembled into partial or complete vehicles or other machines. This classification includes but is not limited to establishments engaged in the sale of used parts recovered from on-site vehicles and machines.	High	PD	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	IDA X
Transportation, Communication and Utility Use Classifications																			

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88. <i>Airport, Landing Strip and Heliport.</i>	Facilities open to aviation or operated for the takeoff and landing of aircraft, including runways; helicopter pads; passenger and cargo facilities; facilities for air traffic control, emergency service, informational devices, maintenance and overhaul, fueling, service, storage; tie-down areas; hangars and other necessary open spaces. May include offices and facilities for flight instruction, charter and cargo service and related services for airport customers as accessory uses.	High	C	-	-	-	-	-	-	-	-	-	-	-	-	P/C	C	-	LDA IDA
89. <i>Antennae and Microwave Equipment.</i>	Amateur radio antennae, or satellite and microwave dishes and equipment installed and operated to serve an individual residence or business.	Low	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	RCA LDA IDA
90. <i>Communication Tower, Public Safety or Other Non-Commercial.</i>	Communication tower designated by the Board of County Commissioners for operation of emergency communications equipment or co-located commercial equipment,	High	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-
91. <i>Communication tower, commercial.</i>	Communication tower that supports commercial uses or non-commercial uses when the structure exceeds 100 feet in height.	High	C	-	C	C	C	-	-	-	C	C	C	C	C	C	C	-	-
92. <i>Freight Terminal.</i>	Facilities for freight service and operations by truck, rail, or ship. This classification does not include airports or heliports.	High	-	-	-	-	-	-	-	-	-	-	-	-	-	P	L	P	LDA IDA
93. <i>Passenger Terminal.</i>	Facilities for passenger transportation operations. This classification includes rail stations and bus terminals.	High	-	-	-	-	-	-	-	-	-	P	P	P	L	P	-	-	LDA IDA
94. <i>Regional Flood and Storm Water Management Facility.</i>	Facilities designed and managed by a public agency or public utility to provide flood control or manage stormwater drainage for multiple development sites.	High	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA
95. <i>Small Wind Energy System.</i>	Wind-powered electric system sized for homes, farms, and small businesses with a capacity of 100 kilowatts and below.	Low	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	RCA LDA IDA
96. <i>Solid Waste Acceptance, Processing, Transfer and/or Resource Recovery Facility.</i>	Public or private recycling, refuse collection, solid waste transfer or disposal facilities or material recovery facilities.	High	C	-	-	-	-	-	-	-	-	-	-	-	-	L	-	-	IDA
97. <i>Utility, Major.</i>	Power generating plant, or power substation, water reservoir, water or wastewater treatment plant and associated disposal ponds, or similar facility of a public agency or public utility. A structure that may have a significant effect on surrounding uses is regulated under this classification.	High	C	-	-	C	C	-	-	-	-	-	-	-	-	C	C	-	LDA IDA
98. <i>Utility, Minor.</i>	Public utility that is necessary to support legally established uses and involves only minor facilities or structures such as a small drainage channel; aqueduct; small sewer or water pump station or substation; above ground distribution or transmission lines including service for telephone or cable television; underground water, sewer, drainage, gas, electricity, telephone, or related utility lines; recycling centers; telephone switching centers; and telegraph or cable television transmitting offices.	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA

Marine Use Classifications

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99. <i>Boatel (multi-level watercraft storage rack building).</i>	Any structure or rack system that includes roof and end walls, is more than 10 feet in height, and is erected or established for the purpose of storing watercraft. (Use may be accessory to a Marina or Boatyard use)	High	PD	-	-	PD	PD	-	PD	-	-	PD	-	-	-	-	-	C	LDA IDA
100. <i>Boatyard.</i>	Facility providing services for construction and repair and overhaul of watercraft. May include accessory retail sale of boats.	High	PD	-	-	PD	PD	-	-	-	-	PD	-	-	-	P	-	P	LDA IDA
101. <i>Charter Fishing Facility.</i>	This classification includes any facility that berths more than one vessel for hire carrying more than 6 passengers regardless of whether inspection is required pursuant to US Coast Guard regulations governing passenger vessels OR more than three vessels for hire meeting the requirements as an "Uninspected vessel under 100 gross tons" pursuant to US Coast Guard regulations and accommodating 6 or fewer passengers each.	Low	C	-	C	-	-	-	C	-	-	C	-	-	-	-	-	P	LDA IDA
102. <i>Commercial Dock.</i>	A facility used for commercial mooring for on-and off-loading of local seafood catch and with no on-site processing. Facilities with processing facilities are classified as Seafood Industry.	Low	L	-	A	L	L	-	L	-	-	L	-	-	-	-	-	L	RCA LDA IDA
103. <i>Dock, Ramp and/or Railway, Public.</i>	Public facility for launching, mooring, or securing watercraft, and where overnight berthing is prohibited.	Low	P	-	-	P	P	-	L	-	-	P	-	-	-	-	-	P	RCA LDA IDA
104. <i>Marina.</i>	Facility for launching, mooring, berthing, storing or securing 10 or more watercraft. May include support facilities such as fuel sales, management office parking, hauling or ramp, sewage pumpout facilities, restrooms and amenities provided for slipholders such as a swimming pool or other recreational area. Provision of Marine services; Maintenance and repair services, Major; Lodging; Restaurant; Retail sales; and Commercial recreation & entertainment allowed as accessory uses in zones where permitted by this Ordinance.	High	PD	-	PD	PD	PD	-	PD	-	-	PD	-	-	-	-	-	P	LDA IDA
105. <i>Marine Services.</i>	Facility that provides services primarily to recreational watercraft in the water and occupants thereof. Includes restrooms, sewage pumpout facility, concessions, and sale of fuel and incidental supplies. (May be accessory to a conforming Marina, Boatyard, or Public dock use)	High	A	-	A	A	A	-	A	-	-	A	-	-	-	-	-	P	LDA IDA
106. <i>Marine Terminal.</i>	Commercial or industrial piers or port facility for the loading and off loading of passengers, vehicles, bulk materials, and cargo on boats, ships, tankers, or barges. Includes shipping terminals, ferry terminals, tanker ports, and barge loading facilities. (Use may be accessory to an Extractive Industry or General production industry.)	High	PD	-	-	-	-	-	-	-	-	-	-	-	-	PD	-	C	IDA

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107. <i>Seafood Industry.</i>	A facility used for processing shellfish and finfish including facilities for securing and off-loading fishing vessels; facilities to hold, process, or store the catch; and facilities to manage waste byproducts. Includes land and water-based aquaculture for-profit operations where raising of fish or shellfish is within any natural, open, free-flowing waterbody—streams, inlets, estuaries. This includes establishments engaged in the buying and selling seafood, wholesale or retail, excluding grocery stores. (See "Commercial Dock" for sites without facilities for processing or wholesale or retail seafood sales.	High	L	-	L	L	L	-	L	-	L	L	-	-	-	-	-	P	RCA LDA IDA
Accessory Use Classifications																			
108. <i>Accessory Apartment.</i>	A secondary residential use incidental to the principal permitted or conditionally permitted use on a site.	Low	A	A	A	A	A	A	A	A	A	A	A	A	-	-	-	A	RCA LDA IDA
109. <i>Automated Teller Machine (ATM).</i>	Automated teller machines located on the exterior of buildings for direct pedestrian access or in freestanding booths for walk-up or drive-up access. ATMs for access from within a building are not regulated.	Low	-	A	A	-	-	-	-	A	A	A	A	A	A	A	A	A	RCA LDA IDA
110. <i>Bus Shelter.</i>	Detached structure located at County - approved pick-up or drop-off point for passengers for school or public transportation.	Low	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	RCA LDA IDA
111. <i>Collection Receptacles for Recyclables Materials.</i>	Dumpsters used for the collection of recyclable materials.	Low	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	RCA LDA IDA
112. <i>Day Care, Family Home.</i>	Non-medical care for a maximum child care capacity of 12 children in the principal residence of the caregiver.	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA
113. <i>Dock, Ramp and/or Railway, Private.</i>	Facility for mooring, berthing, storing or securing four (4) or fewer watercraft, and a boat ramp provided the boat ramp is located adjacent to the pier.	Low	A	-	A	A	A	-	A	-	-	A	-	-	-	-	-	-	RCA LDA IDA
114. <i>Dock, Ramp and/or Railway.</i>	Facility for mooring berthing, storing or securing 5 to 9 watercraft, and a boat ramp provided the boat ramp is located adjacent to the pier.	Low	A	-	A	A	A	-	A	-	-	A	-	-	-	-	-	-	RCA LDA IDA
115. <i>Drive-Through Services.</i>	Facility for providing services to persons remaining in automobiles.	High	-	A	A	-	-	A	-	A	A	A	A	A	A	A	A	-	RCA LDA IDA
116. <i>Home Occupation.</i>	Accessory commercial uses allowed in a dwelling unit where the occupation, profession, activity or use is clearly a customary, incidental, and secondary use of a residential dwelling unit that does not alter the exterior of the property or affect the character of the neighborhood.	Low	A	A	-	A	A	A	A	A	A	A	A	A	-	-	-	A	RCA LDA IDA
117. <i>Live Entertainment.</i>	Any establishment that provides performances for the purpose of amusing a guest or patron on a scheduled basis more than three times a calendar year, regardless of whether the performers are compensated. This classification also includes any form of dancing by guests or patrons that occurs on a scheduled basis.	High	-	A	A	-	-	-	-	-	A	A	A	A	A	A	A	A	RCA LDA IDA

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118. <i>On-Site Workers' Housing.</i>	Residential structures owned and operated by an employer for the purpose of providing living quarters for workers during the period of their employment on the site of their employment. Housing may be long- or short-term, seasonal or year round.	Low	A	-	-	A	A	-	-	-	A	A	A	A	-	-	-	-	RCA LDA IDA
119. <i>Accessory General.</i>	Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures.	None	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA
120. <i>Outdoor Storage.</i>	Storage or placement of equipment, merchandise, or products not otherwise permitted outside of a building. This does not apply to agricultural use classifications.	High	-	A	A	-	-	-	-	-	A	A	A	A	A	A	A	A	LDA IDA
121. <i>Recreational Vehicles.</i>	Vehicles that are self propelled or towable and designed primarily for temporary living while traveling or camping.	None	A	A	A	A	A	A	A	A	A	A	A	A	-	-	-	A	RCA LDA IDA
122. <i>Swimming Pool Private, Non-Commercial.</i> 7/7/14	Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground swimming pools and above-ground and on-ground hot tubs and spas.	Low	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	RCA LDA IDA
123. <i>Stables.</i>	An accessory building, not related to the ordinary operation of a farm, for housing of horses or mules.	Low	A	A	-	A	-	-	A	-	A	A	-	-	-	-	-	-	RCA LDA IDA
124. <i>Charter Fishing.</i>	Charter fishing activities operated at a private pier that is accessory to residential use providing berthing and facilities for: One vessel capable of carrying more than 6 and less than 25 passengers and meeting the requirements for a "Small Passenger Vessel (under 100 gross tons) pursuant to US Coast Guard regulations OR no more than three uninspected vessels capable of carrying 6 or fewer passengers for hire each meeting the requirements as an "Uninspected vessel under 100 gross tons" pursuant to US Coast Guard regulations. Generation of revenue from fishing operations shall not be deemed prima facie evidence contradicting the subordinate and incidental nature of this use to the primary residential use.	None	A	-	A	A	A	-	-	-	-	A	-	-	-	-	-	-	RCA LDA IDA
Temporary Use Classifications																			
125. <i>Construction Trailer/Office.</i>	Prefab building used as offices and/or storage during project construction.	NA	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	RCA LDA IDA
126. <i>Sales Office/Model Home.</i>	Facilities housed on the site of a development project during construction for the purpose of sales activities relating to the project.	Low	P	P	-	P	P	P	P	P	P	P	P	P	-	-	-	-	RCA LDA IDA
127. <i>Shows and Events, Indoor.</i>	Temporary indoor events occurring at a site. Includes animal shows for domestic or farm animals; art fairs and shows; indoor display and sale of hand crafts and similar objects; equipment and trade fairs; concerts, carnivals, fairs, and other similar events; and events that provide games, eating and drinking facilities, live entertainment, or similar activities.	NA	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	L	RCA LDA IDA

St. Mary's County Comprehensive Zoning Ordinance
Article 5. REGULATION OF USES

Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RH	RNC	RMX	VMX	TMX	DMX	CMX	CC	I	OBP	CM	Critical Area Overlay
128. <i>Shows and Events, Outdoor.</i>	Temporary outdoor events occurring at a site. Includes animal shows for domestic or farm animals; art fairs and shows; indoor display and sale of hand crafts and similar objects; equipment and trade fairs; concerts, carnivals, circuses, fairs, and other similar events; and events that provide games, eating and drinking facilities, live entertainment, or similar activities.	NA	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	RCA LDA IDA
129. <i>Temporary Residence During Construction.</i>	A mobile home used as a temporary residence in conjunction with the construction of a permanent home.	NA	P	-	-	P	P	-	P	-	-	-	-	-	-	-	-	-	RCA LDA IDA

1 **CHAPTER 51 USE REGULATIONS AND STANDARDS**

2 Sections:

3 51.1 Applicability.

4 51.2 General Regulations and Standards for All Uses.

5 51.3 Specific Regulations and Standards.

6 **51.1. Applicability.**

7 This section establishes regulations and standards, consistent with the Comprehensive Plan, for uses that
8 are:

9 1. Permitted as of right (P); or

10 2. Permitted with limitations (L); or

11 3. Permitted only with conditional use approval (C) by the Board of Appeals; or

12 4. Permitted only as accessory uses and structures (A) intended to be ancillary to permitted, limited,
13 and conditional uses; or

14 5. Permitted under the Temporary Use Classification, as temporary uses intended to be ancillary to
15 permitted principal, limited, or conditional uses and to operate for a specified period of time; or

16 6. Permitted only as part of a planned development (PD).

17 **51.2. General Regulations and Standards for All Uses.**

18 Uses are permitted, limited, conditional, accessory, temporary, or allowed only in a planned unit
19 development in individual zoning districts, as shown in Schedule 50.4. Uses shall comply with the
20 following general and applicable specific provisions:

21 1. **General Provisions.** Unless otherwise stated in the standards for a specific use, the following
22 general provisions are applicable to all uses and structures:

23 a. Compliance with procedures for application and approval as required by Article 2; and

24 b. Compliance with special and overlay district requirements as required by Article 4; and

25 c. Compliance with use regulations and standards requirements as required by Article 5; and

26 d. Compliance with site development standards as required by Article 6; and

27 e. Compliance with site development and resource protection standards as required by
28 Article 7; and

29 f. Compliance with the St. Mary's County Building Code; and

30 g. Compliance with the St. Mary's County Subdivision Ordinance, Section 30.11, for lots
31 served by a private drive or road.

32 2. **Limited Uses.** Limited uses shall comply with all General Standards for that use type in addition
33 to the limited standards listed for that use type in Section 51.3. Limited uses that fully comply
34 with the regulations and standards are permitted as-of-right.

35 3. **Conditional Uses.** Conditional uses shall, at a minimum, comply with all General Standards in
36 addition to all conditional standards listed for that use in Section 51.3. Compliance with the
37 general and conditional standards for that use type shall not impair the authority of the Board of
38 Appeals or preclude the proper exercise of discretion by the Board of Appeals in hearing and
39 deciding a conditional use application, whether to approve, approve with conditions or deny any
40 application. As required by Chapter 25, the Board of Appeals may impose additional conditions of
41 approval.

42 4. **Accessory Uses.** An accessory type use shall be incidental and subordinate to an allowable use, on
43 the same site as an allowable use, and serve an allowable use. Accessory uses identified in

Schedule 50.4 shall be permitted on vacant property subject to Section 11.2.4.b. The following general provisions are applicable to all accessory uses and structures.

- a. No detached, accessory structure shall occupy more than 25 percent of required setback areas.
- b. No detached, accessory structure shall exceed the maximum permitted height in the zoning district in which the use is proposed.
- c. Detached accessory structures shall be located no closer than 10 feet to any other accessory or principal structure.
- d. Accessory structures shall comply with the floodplain provisions of this Ordinance found on Section 76.6.

5. **Temporary Uses.** A temporary use shall be incidental to the principal use on a site and shall operate for no longer than the period stated in Section 51.3, Specific Regulations and Standards, or if not stated, for no more than 20 days per year. The following general provisions are applicable to all temporary uses and structures:

- a. Uses intended to attract large numbers of people to the event shall be located at sites having sufficient off-street parking available, which may include a grass field to accommodate anticipated parking needs. Arrangements for managing traffic-ingress, egress, and parking, including attendants and directional signage shall be provided.
- b. Upon termination of the temporary use, the site occupied by the temporary use shall be cleaned of litter and returned to its original condition.

51.3. Specific Regulations and Standards.

(NOTE: IN THIS SECTION THE TERM "RESERVED" IS AN OUTLINE PLACEHOLDER ONLY)

1. Agricultural Industry, Major.

a. *General Standards:*

- (1) Site plan approval shall be required.
- (2) Uses generating more than 50 vehicle trips per day shall only be approved by the Board of Appeals as a conditional use.

b. *Limited Standards. (reserved)*

c. *Conditional Standards. (reserved)*

2. Agricultural Industry, Minor.

a. *General Standards:*

- (1) Site plan approval shall be required.
- (2) In the RCA, the uses must be associated with an agricultural use on the same property.

3. Animal Husbandry.

a. *General Standards:*

- (1) All areas used or intended to be used for animal raising, keeping and confinement, including corrals, pastures, pens, paddocks, and similar facilities shall be enclosed by an adequate fence or other device capable of securely containing and protecting the animals kept or confined.

b. *Limited Standards. (reserved)*

4. Aquaculture.

a. *General Standards:*

-
- 1 (1) Site plan approval shall be required.
- 2 (2) Land and water-based aquaculture activities that are not operated for profit e.g.
3 ponds stocked for private fishing, oysters grown in floats at private piers for
4 consumption by the landowner, etc – are not regulated and may occur in any
5 district.
- 6 b. *Limited Standards:*
- 7 (1) A minimum 75 foot setback shall be provided between any adjoining property
8 and any tank or structure built in relation to or area of aquaculture operation
9 activity.
- 10 5. ***Crop Production and Horticulture.***
- 11 a. *General Standards. (reserved)*
- 12 6. ***Farmers Market.***
- 13 a. *General Standards:*
- 14 (1) Permit approval shall be required.
- 15 (2) Structures must not exceed 5,000 square feet. Structures in excess of this area
16 shall seek approval for “fairgrounds and flea markets.”
- 17 (3) Permanent and moveable structures shall be set back 10 feet from the roadside
18 property line and shall be at least 15 feet from the rear property line.
- 19 (4) Off-street parking and loading space shall be provided.
- 20 (5) Exits and entrances to the parking area shall be located so as to provide safe
21 ingress to and egress from the site.
- 22 (6) An on-site sign, not to exceed 32 square feet on a side may be permitted. Off-
23 site signs shall comply with this Ordinance.
- 24 (7) Examples of goods or structures for sale that are placed on a site along with
25 signage directing customers to contact or visit another location for purchase
26 shall be regulated as off-site signage under this Ordinance.
- 27 7. ***Auction House.***
- 28 a. *General Standards:*
- 29 (1) Site plan approval shall be required.
- 30 (2) Minimum lot size shall be five (5) acres.
- 31 (3) Frontage shall be on a collector or arterial road and access shall be from a local,
32 or higher, road classification.
- 33 (4) Minimum setback of the auction building, whether or not it is enclosed, shall be
34 100 feet from all property lines.
- 35 b. *Conditional Standards:*
- 36 (1) The application submitted by the applicant to the Board of Appeals for an
37 auction house shall meet the requirements of Chapter 25 of this Ordinance, as
38 amended from time to time.
- 39 (2) Evening and weekend operations may be permitted as long as such operations
40 do not have an adverse impact on adjoining uses.
- 41 (3) The Board of Appeals may require additional loading spaces as needed.

-
- 1 8. **Roadside Stand.**
- 2 a. *General Standards:*
- 3 (1) Permit approval shall be required.
- 4 (2) The structure shall be no larger than 2,000 sq. ft. in area. Structures in excess of
5 this area shall be considered a “Farmer’s Market.”
- 6 (3) The building, transient cart, vehicle, or other device used as a roadside stand
7 shall be at least 15 feet from the rear property line, and maintain a 10-foot front
8 yard setback from the roadside property line.
- 9 (4) Exits and entrances shall be provided and shall be located to provide safe ingress
10 and egress.
- 11 (5) Adequate off-street parking spaces shall be provided.
- 12 (6) One sign, not to exceed 32 sq. ft. on a side, may be permitted on-site. Any off-
13 site signs shall comply with Chapter 65.
- 14 9. **Silviculture.**
- 15 a. *General Standards:*
- 16 (1) Conversion of harvested land from “Silviculture” use to another land use within
17 five-years of the harvest is prohibited unless the harvested area is mitigated in
18 accordance with Chapter 75.
- 19 (2) Harvesting operations in the Critical Area shall obtain an environmental permit
20 and shall submit an application including:
- 21 (a) A Forest Harvest Plan approved by the Forestry Board; and
- 22 (b) An approved Erosion and Sediment Control Plan; and
- 23 (c) A Forestry Declaration of Intent signed by the landowner.
- 24 10. **Equestrian Facility, Major.**
- 25 a. *General Standards:*
- 26 (1) Site plan approval shall be required.
- 27 (2) Minimum lot size shall be fifteen (15) acres.
- 28 (3) Minimum setback of the 30,000 square or larger equestrian building or structure,
29 whether or not it is enclosed, shall be 100 feet from all property lines.
- 30 b. *Conditional Standards:*
- 31 (1) Evening and weekend operations may be permitted as long as such operations
32 do not have an adverse impact on adjoining uses.
- 33 (2) The Board of Appeals may require additional loading spaces as needed.
- 34 11. **Equestrian Facility, Minor.**
- 35 a. *General Standards:*
- 36 (1) Permit approval shall be required.
- 37 (2) Structures must not exceed 30,000 square feet. Structures in excess of this area
38 shall seek approval for “Equestrian Facility, Major.”
- 39 (3) Structures shall be set back in accordance with Schedule 32.1.
- 40 (4) Off-street parking and loading space shall be provided.

1 (5) Exits and entrances to the parking area shall be located so as to provide safe
2 ingress to and egress from the site.

3 (6) An on-site sign, not to exceed 32 square feet on a side may be permitted. Off-
4 site signs shall comply with this Ordinance.

5 b. *Limited Standards:*

6 (1) Minimum lot size shall be five (5) acres.

8/02/11 7 12. **A. Distillery.**

2/05/13 8 a. *General Standards:*

9 (1) Site plan approval shall be required.

10 (2) Adequate parking shall be provided in accordance with Schedule 64.3.1 of this
11 Ordinance.

12 (3) A promotional event must comply with the requirements of Use Type 127,
13 indoor shows and events and Use Type 128, outdoor shows and events, where
14 applicable, in accordance with Section 51.3 of this Ordinance.

15 (4) A distillery may include an area or separate facilities for administrative office
16 functions incidental to distillery operations, tours, product sampling, retail sales
17 of products manufactured on the licensed premises and related merchandise,
18 promotional events incidental to the distillery, and a kitchen facility for
19 preparing and serving food at permitted events.

20 (5) The maximum footprint of the area housing office space, product sampling,
21 retail sales, promotional events and kitchen facilities, shall be in accordance
22 with Schedule 32.1 of this Ordinance.

23 **B. Winery.**

24 a. *General Standards:*

25 (1) Site plan approval shall be required.

26 (2) A winery may include space for administrative office functions, wine tasting
27 events, other promotional events, kitchen facilities, and retail sales of wine and
28 related promotional items, provided that such space is incidental to winery
29 operations.

30 (3) The maximum footprint of the area housing office space, retail sales of wine,
31 incidental retail sales, wine tasting events, kitchen facilities and promotional
32 events incidental to the winery operation shall be in accordance with Schedule
33 32.1 of this Ordinance.

34 (4) The winery shall be operated in accordance with all federal, state, and local
35 laws.

36 (5) Adequate parking shall be provided in accordance with Schedule 64.3.1 of this
37 Ordinance.

38 (6) In the RPD, the following additional limitations apply:

39 (a) Promotional events other than wine tasting events must be temporary
40 events and may include wedding receptions, private parties, and other
41 similar events. Promotional events must comply with the applicable
42 Maryland Winery Licenses and with the requirements for Use Type
43 125, indoor shows and events and Use Type 126, outdoor shows and
44 events in accordance with Section 51.3 of this Ordinance.

- (b) The facility shall not produce more than 27,500 gallons of wine per year.
- (c) The owner or operator of the facility shall cultivate grapes or other fruit on site or on other land located in the County.

12/18/12 5 **C. Farm Brewery.**

6 a. *General Standards:*

- 7 (1) Site plan approval shall be required.
- 8 (2) Adequate parking shall be provided in accordance with Schedule 64.3.1 of this
9 Ordinance.
- 10 (3) A promotional event must comply with Section 51.3.127 and Section 51.3.128
11 of this Ordinance.
- 12 (4) A farm brewery may include space for product sampling, incidental
13 administrative office functions, incidental retail sales of beer and related
14 promotional items, promotional events held pursuant to a permit from the
15 Comptroller, and kitchen facilities for preparing and serving food pursuant to the
16 license.
- 17 (5) The maximum footprint of the area for product sampling, office space, retail
18 sales of beer and promotional items, promotional events, and kitchen facilities,
19 incidental to the brewery operation, shall be in accordance with Schedule 32.1 of
20 this Ordinance.

21 13. **Agricultural Tourism.**

22 a. *General Standards: (reserved)*

23 14. **Dwelling Unit, Attached.**

24 a. *General Standards:*

- 25 (1) Site plan approval shall be required.
- 26 (2) The minimum area for any single parcel having a townhouse structure shall be
27 three acres. Said parcel shall have a depth from the street of at least 200 feet and
28 frontage on a street of at least 200 feet.
- 29 (3) A townhouse structure may not exceed 130 feet in length.
- 30 (4) Townhouse width shall be no less than 20 feet (measured at the building line).
31 Lot width for end units shall be adequate to meet zone setback requirements
32 from adjacent properties and rights-of-way. A structure containing three (3) or
33 more dwelling units shall be a minimum of 75 feet from the boundary of the site
34 where the site adjoins a single-family detached dwelling.
- 35 (5) Rear yards shall be screened from rear yards of adjacent attached dwelling units
36 rear yards by a six-foot privacy fence extending not less than 15 feet from the
37 rear building wall.
- 38 (6) Minimum distance between two unattached attached dwelling structures shall be
39 40 feet between exterior walls. This setback shall increase to 60 feet if the
40 structures are face to face. In a cluster these separations may be reduced to 25
41 and 40 feet respectively. Structures shall be setback at least 25 feet from any
42 interior driveway and at least 15 feet from off-street parking areas (excluding
43 garages provided in individual units).
- 44 (7) A minimum of 800 square feet of open space per attached dwelling unit
45 (exclusive of front, side, or rear yards) shall be maintained in common open
46 space in a location approved by the Planning Commission.

-
- 1 (8) No part of an attached dwelling unit may exceed 40 feet in height.
- 2 b. *Limited Standards:*
- 3 (1) In the RPD, only a single duplex may be allowed on a parcel.
- 4 (2) In the RLT, only duplexes may be allowed.
- 5 15. ***Dwelling Unit, Detached.***
- 6 a. *General Standards:*
- 7 (1) Permit approval shall be required.
- 8 (2) Mobile homes are regulated as a separate use in this Ordinance.
- 9 16. ***Dwelling Unit, Multi-family Residence.***
- 10 a. *General Standards:*
- 11 (1) Site plan approval shall be required.
- 12
- 13 (2) Maximum lot coverage for a principal structure shall not exceed 30 percent of
- 14 the total tract area.
- 15 (3) Recycling Collection Receptacles. Apartment communities with 100 or more
- 16 dwelling units and multi-family residential buildings with 100 or more multi-
- 17 family dwelling units shall provide recycling.
- 18 (4) At least 30 percent of the total tract area shall be maintained in open space
- 19 (exclusive of rear yards, driveways and parking or loading areas). At least 50
- 20 percent of the open space shall be useable open space.
- 21 (5) Apartments:
- 22 (a) Private rear yards, having an area of at least 15 feet by 15 feet, shall be
- 23 screened from adjacent private yards by the equivalent of six-foot
- 24 privacy fence.
- 25 (b) Minimum distance between two unattached multi-family structures
- 26 shall be 40 feet between exterior walls. This setback shall increase to
- 27 60 feet if the structures are face to face.
- 28 (c) At least 30 percent of the development envelope shall be maintained in
- 29 Useable Open Space. At least 25 percent of the open space shall be
- 30 Amenity Space.
- 31 17. ***Group Home.***
- 32 a. *General Standards:*
- 33 (1) Permit approval shall be required.
- 34 (2) Facility shall house no more than eight unrelated individuals (including staff).
- 35 (3) Accommodations for each eight (8) persons shall constitute an equivalent
- 36 dwelling unit for purposes of determining residential density and adequate
- 37 facilities.
- 38 (4) Any facility housing children shall provide a dedicated outdoor play space, free
- 39 from hazards and appropriately equipped for the age and number of children.
- 40 (5) New and renovated structures shall have the appearance of a single-family
- 41 residential structure.
- 42 b. *Accessory Standards:*

-
- (1) Existing residences may remain or be replaced in-kind. Expansion of an existing residential structure is limited to 50 percent of the floor area existing on the date of adoption of this Ordinance.

18. **Halfway House.**

a. *General Standards:*

- (1) Site plan approval shall be required.
- (2) Accommodations for each eight (8) persons shall constitute an equivalent dwelling unit for purposes of determining residential density and adequate facilities.

b. *Limited Standards:*

- (1) Halfway houses shall be located at least 1,000 feet from any elementary or secondary school property.
- (2) New and renovated structures shall have the appearance of one-or two-family residential structures.
- (3) Facility shall house no more than eight unrelated individuals (including staff) unless a conditional use approval is granted to increased number of residents.
- (4) A 4-foot residential type wooden fence shall be provided at the sides and rear of the property. Chain link fencing is not acceptable.

19. **Institutional Residence.**

a. *General Standards:*

- (1) Site plan approval shall be required.
- (2) Accommodations for each eight (8) persons shall constitute an equivalent dwelling unit for purposes of determining residential density and adequate facilities.
- (3) A minimum of 30 percent of the tract area shall be maintained in Useable Open Space and at least 50 percent of this open space shall be Amenity Space for residents of the facility.
- (4) Any facility housing children shall provide a dedicated outdoor play space, free from hazards and appropriately equipped for the age and number of children.

b. *Limited Standards:*

- (1) New and renovated structures shall have the appearance of a single-family residential structure.
- (2) Facility shall house no more than eight unrelated individuals (including staff) unless a conditional use approval is granted to increased number of residents.

c. *Accessory Standards:*

- (1) Housing shall be for seasonal agricultural workers. No other forms of institutional housing are permitted.
- (2) Structures shall be located on a site used for or immediately adjacent to a site used for a bona fide agriculture operation.

20. **Mobile Home.**

a. *General Standards:*

- (1) Permit approval shall be required.

-
- 1 (2) New mobile homes are prohibited in the coastal high hazard area and in the
2 floodway. In other floodplain zones, all new, replacement, or substantially
3 improved mobile homes, whether or not in a mobile home park, shall comply
4 with the floodplain requirements of this Ordinance.
- 5 (3) Mobile homes shall be installed in accordance with the St. Mary's County
6 Building Code.
- 7 (4) Mobile homes shall have their crawlspace enclosed by skirting to finished grade.
8 Abandoned mobile homes shall be ordered removed after such abandonment has
9 continued for a continuous 30 days, regardless of the owner or tenant's intent to abandon.
10 The Planning Director or designee shall serve written notice that the mobile home is
11 declared abandoned and that it shall be removed from the property by the property owner
12 within 30 days of such notice. If the property owner fails to remove the abandoned
13 mobile home, the County may enter upon the property and remove the abandoned mobile
14 home at the owner's expense.
- 15 b. *Limited Standards.*
- 16 (1) Mobile homes may be allowed in the RLT, RL and RNC zones as a "Temporary
17 residence during construction." (See Use "Temporary Residence During
18 Construction.")
- 19 (2) In the specific mapped RNC district where a new or replacement mobile home is
20 proposed, the use shall only be permitted if at least 50 percent of developed lots
21 contain other legal mobile homes "on the date application is made for the new or
22 replacement mobile home."
- 23 21. ***Mobile Home Park or Subdivision.***
- 24 a. *General Standards:*
- 25 (1) Site plan approval shall be required.
- 26 (2) A "B" buffer yard shall be provided between any mobile home park or
27 subdivision and any land not zoned or utilized for a mobile home park or
28 subdivision. In cases where the buffer yard is already wooded, the Planning
29 Commission may make adjustments in the required plantings, provided the
30 natural forest vegetation is not disturbed.
- 31 (3) Mobile home pads and structures shall be located at least 10 feet from any buffer
32 yard, at least 10 feet from any lot line, and at least 20 feet from any other mobile
33 home, building, or interior road right-of-way.
- 34 (4) The owner, condominium association, homeowners' association, or similar
35 entity of ownership of a mobile home park or subdivision shall be required to
36 maintain all in-park facilities and utilities including, but not limited to, roads,
37 curbs, sidewalks, stormwater management systems, hydrants and fire alarm
38 systems. The county may revoke all business licenses should such maintenance
39 be proven inadequate, in addition to other remedies available in this Ordinance.
40 Individual users may be required to maintain connection of utilities to individual
41 homes.
- 42 (5) A minimum of 50 percent of the total site shall be reserved for Usable Open
43 Space.
- 44 22. ***Residential Services.***
- 45 a. *General Standards:*
- 46 (1) Site plan approval shall be required.

-
- 1 (2) Facilities providing medical care shall be certified, permitted, or licensed by the
2 State of Maryland.
- 3 (3) Accommodations for each eight (8) persons shall constitute an equivalent
4 dwelling unit for purposes of determining residential density and adequate
5 facilities.
- 6 b. *Limited Standards:*
- 7 (1) Adequate facility analysis for emergency and rescue service response time to the
8 facility and recommendation for approval of the analysis by emergency and
9 rescue departments serving the area shall be required as a condition of approval
10 for the facility.
- 11 (2) The use will be housed in buildings that appear to be residential dwelling(s).
- 12 c. *Conditional Standards:*
- 13 (1) The facility shall meet limited standards.
- 14 (2) Applicant must provide evidence to demonstrate the use will not cause negative
15 impacts to the adjacent neighborhood because of traffic, noise, or the number of
16 patients or people being cared for.
- 17 23. ***Single Room Occupancy Units.***
- 18 a. *General Standards:*
- 19 (1) Site plan approval shall be required.
- 20 (2) Accommodations for each eight (8) persons shall constitute an equivalent
21 dwelling unit for purposes of determining residential density and adequate
22 facilities.
- 23 24. ***Burial Grounds.***
- 24 a. *General Standards:*
- 25 (1) Site Plan approval shall be required.
- 26 (2) Burial plots shall be located at least 20 feet from any property line.
- 27 (3) Arrangements for perpetual maintenance of burial grounds shall be required and
28 a maintenance agreement, approved by the County Attorney, shall be recorded
29 with the Clerk of the Court.
- 30 (4) In the RCA new uses shall be limited to 20,000 square feet of impervious
31 surface area of 15% of the site, whichever is less. The area of individual head
32 stones or grave markers shall not be included in the calculation for impervious
33 surface. In the RCA, expansion of existing uses shall be governed by the
34 provisions of Chapter 52, except that a variance shall be required when
35 expansion allowed by that chapter would exceed the impervious surface limits
36 for the Resource Conservation Area Overlay.
- 37 b. *Accessory Standards:*
- 38 (1) Existing family burial grounds in any zone may continue in use. Such burial
39 grounds may not be operated for profit. Access to the site shall be provided.
- 40 (2) New burial grounds may be approved as accessory uses provided such burial
41 grounds are not operated for profit and a permanent easement for access to the
42 site from a public road is provided.
- 43 25. ***Clubs or Lodges.***
- 44 a. *General Standards:*

-
- 1 (1) Site plan approval shall be required.
- 2 (2) Services such as a restaurant, tavern, retail sales, recreation and entertainment
- 3 for other than members and their guests shall require zoning permit approval as
- 4 a principal use.
- 5 b. *Accessory Standards:*
- 6 (1) In the CM, the facility must be accessory to a conforming Marina use.
- 7 c. *Conditional Standards:*
- 8 (1) In the RNC, the creation of such a use after the effective date of this Ordinance
- 9 is prohibited unless it can be demonstrated to the satisfaction of the Board of
- 10 Appeals that similar legally created uses currently exist in the RNC
- 11 neighborhood surrounding the proposed use.
- 12 26. ***Cultural Institution.***
- 13 a. *General Standards:*
- 14 (1) Site plan approval shall be required.
- 15 (2) The facility may consist of one or more buildings or structures that shall be
- 16 devoted entirely to the furtherance of the arts or culture.
- 17 b. *Conditional Standards:*
- 18 (1) The tract upon which the facility is located shall have a minimum area of at
- 19 least one acre.
- 20 27. ***Day Care Facility, Medical.***
- 21 a. *General Standards:*
- 22 (1) Site plan approval shall be required.
- 23 (2) Facility shall be certified, permitted or licensed by the State of Maryland.
- 24 28. ***Day Care, Non-medical.***
- 25 a. *General Standards:*
- 26 (1) Site Plan approval shall be required.
- 27 (2) Facility shall be certified, permitted, or licensed by the State of Maryland.
- 28 (3) Facility shall have fenced open space for the use and recreation of the
- 29 individuals served by the facility. Facilities for children shall have fenced
- 30 outdoor play areas and equipment for children of the age and number served by
- 31 the facility.
- 32 29. ***Education Facility, College.***
- 33 a. *General Standards:*
- 34 (1) Site plan approval shall be required.
- 35 b. *Limited Standards:*
- 36 (1) Development envelope shall not exceed 25 percent of a proposed or existing
- 37 business park or industrial zone.
- 38 (2) In the I district, the development shall only be for vocational and technical skills
- 39 training.
- 40 c. *Conditional Standards:*

-
- (1) Applicant must provide evidence to demonstrate the use will not negatively impact the adjacent neighborhood because of traffic, noise, and number of students attending the institution.

30. **Education Facility, School.**

a. *General Standards:*

- (1) Site Plan approval shall be required.

b. *Limited Standards:*

- (1) In the RNC, the use is prohibited unless it can be demonstrated that similar legally created uses currently exist in the RNC neighborhood surrounding the proposed use.

c. *Conditional Standards:* Applications for new public facilities located outside of County-certified "Priority Funding Areas" shall be accompanied by:

- (1) Evidence of the need to provide adequate school facilities to meet the needs of existing rural development; and
- (2) Evidence that expansion of existing school facilities outside of Priority Funding Areas to meet the needs of existing rural development feasible.

31. **Government Facility.**

a. *General Standards:*

- (1) Site Plan approval shall be required.
- (2) In the Critical Area, new non-maritime facilities may be permitted only in the IDA and then only if the facility or activity has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

b. *Limited Standards:*

- (1) In the RNC, the use is prohibited unless it can be demonstrated that similar legally created uses currently exist in the RNC neighborhood surrounding the proposed use.

c. *Conditional Standards:* Applications for new facilities located outside of County-certified "Priority Funding Areas" shall be accompanied by:

- (1) Evidence that the facility is necessary to provide adequate health, safety and welfare primarily for rural residents; and
- (2) Evidence that location outside of Priority Funding Areas is necessary to meet the function of the proposed facility.

32. **Hospital.**

a. *General Standards:*

- (1) Site Plan approval shall be required.

b. *Limited Standards:*

- (1) Inpatient facilities of greater than 10,000 square feet shall be located on parcels of five acres or more in size.
- (2) An approved certificate of need shall be submitted with the application for site plan approval.
- (3) Access shall be from an arterial or major collector road.

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- 1 (4) Hospitals proposing accessory heliport facilities shall require conditional use
2 approval when the site abuts land in a residential district.
- 3 33. **Long-Term Care Facility.**
- 4 a. *General Standards.*
- 5 (1) Site plan approval shall be required.
- 6 b. *Conditional Standards:*
- 7 (1) Applicant must provide evidence to demonstrate the use will not negatively
8 impact the adjacent neighborhood because of traffic, noise, and number of
9 patients or people being cared for.
- 10 (2) The use will be housed in buildings that are architecturally compatible with
11 other buildings in the surrounding neighborhood.
- 12 (3) The tract upon which the facility is located shall be a minimum area of at least
13 one acre.
- 14
- 15 34. **Outpatient Care Center.**
- 16 a. *General Standards:*
- 17 (1) Site plan approval shall be required.
- 18 b. *Limited Standards:*
- 19 (1) The use will be housed in buildings that are architecturally compatible with
20 other buildings in the surrounding neighborhood.
- 21 (2) Applicant must provide evidence to demonstrate that the use will not cause
22 negative impacts to the adjacent neighborhood because of traffic, noise, and
23 number of people being cared for.
- 24 (3) The tract upon which the facility is located shall be a minimum area of at least
25 one acre.
- 26 (4) Vehicle trips per day generated by the activity of the facility shall not exceed 50.
- 27 35. **Public Recreation Facility.**
- 28 a. *General Standards.*
- 29 (1) Site plan approval shall be required.
- 30 (2) Off-street parking, either on- or off-site, shall be provided for any new or
31 expanded facility.
- 32 (3) Restrooms shall be provided for any public recreation facility that is not
33 accessory to an on-site or adjacent commercial use.
- 34 (4) Conditional use approval is required to install lights at a facility in the RPD or
35 within 1,000 feet of any residential structure or boundary of a residential zoning
36 district.
- 37 (5) A concessions stand may be permitted for operation only during normal hours of
38 operation for the facility. If on-going games or activities extend outside normal
39 hours of operation, concessions may begin up to an hour before the first game
40 and end an hour after the last game of the day.
- 41 b. *Limited Standards:*

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- 1 (1) In the RNC, the use is prohibited unless it can be demonstrated that similar
2 legally created uses currently exist in the RNC neighborhood surrounding the
3 proposed use.
- 4 36. **Public Maintenance Facility.**
- 5 a. *General Standards:*
- 6 (1) Site plan approval shall be required.
- 7 (2) Outdoor storage must be located a minimum 200 feet from any residential
8 district boundary.
- 9 37. **Public Safety Facility.**
- 10 a. *General Standards:*
- 11 (1) Site plan approval shall be required.
- 12 (2) Lighting shall be directed down, and fixture light source shall not be visible
13 from areas beyond the property boundaries.
- 14 (3) Requirements and standards for stations as adopted by the St. Mary's County
15 Fire Board or the St. Mary's County Ambulance and Rescue Association may
16 not be restricted by zoning approval.
- 17 b. *Limited Standards:*
- 18 (1) The use will be housed in buildings that are architecturally compatible with
19 other buildings in the surrounding neighborhood.
- 20 38. **Religious Assembly.**
- 21 a. *General Standards:*
- 22 (1) Site plan approval shall be required.
- 23 (2) Lighting shall be directed down and shall not be visible from areas beyond the
24 property boundaries.
- 25 (3) In the RNC, the use is prohibited unless it can be demonstrated that similar
26 legally created uses currently exist in the RNC neighborhood surrounding the
27 proposed use.
- 28 (4) Applicant must provide evidence to demonstrate that the use will not negatively
29 impact the adjacent neighborhood because of traffic, noise, and number of
30 people attending the facility.
- 31 (5) Overflow on-street parking shall not cause a hazard or nuisance for residents of
32 the neighborhood.
- 33 (6) The use will be housed in buildings that are architecturally compatible with
34 other buildings in the surrounding neighborhood.
- 35 39. **Rural Medical Practice.**
- 36 a. *General Standards:*
- 37 (1) Site plan approval shall be required.
- 38 b. *Limited Standards:*
- 39 (1) Ownership by deed of at least five contiguous acres in a single parcel by the
40 licensed professional practicing and residing on site. Property must abut a
41 public road.
- 42 (2) Proof of current, active, professional Maryland Department of Health and
43 Mental Hygiene licensure of the property owner residing on site.

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- 1 (3) A facility shall be no larger than 2,000 square feet at ground level, or if under
2 the same roof as the dwelling 50 percent of dwelling.
- 3 (4) No overnight patients or dormitory facilities shall be allowed.
- 4 (5) Office hours limited to Monday through Friday (8 a.m. to 6 p.m.) and Saturday
5 (9 a.m. to 1 p.m.).
- 6 (6) Facility shall be in character with the surrounding neighborhood or visually
7 screened from view.
- 8 (7) No on-street parking allowed. A limit of ten off-street parking spaces shall be
9 allowed for employees and patients. The parking area shall be visually screened
10 from view of adjacent properties and public roads.
- 11 (8) Signage shall not exceed four square feet.
- 12 40. **Adult Entertainment.**
- 13 a. *General Standards:*
- 14 (1) Site plan approval shall be required.
- 15 b. *Limited Standards. (reserved)*
- 16 c. *Conditional Standards:*
- 17 (1) Adult entertainment uses shall be permitted only above the ground floor.
- 18 41. **Animal Boarding.**
- 19 a. *General Standards:*
- 20 (1) Site plan approval shall be required.
- 21 (2) All animal boarding facilities and operations shall comply with the applicable
22 animal control regulations.
- 23 (3) Facilities in the RPD, TMX, VMX, and RL shall be located on parcels at least
24 six acres in size.
- 25 (4) Structures for animal boarding must be adequately soundproofed and
26 constructed so there will be no emission of noise, odor, or chemicals detrimental
27 to any neighboring property.
- 28 (5) Setbacks and buffer yards.
- 29 (a) A type "B" buffer yard shall be required along the side and rear
30 property lines for any facility having outdoor areas of animal
31 confinement.
- 32 (b) All waste disposal facilities (e.g. dumpsters, waste traps) shall be
33 screened and located at least 200 feet from any property in residential
34 use within RMX, RL, RH or RNC boundary lines.
- 35 (c) Facilities with outdoor dog runs, kennels or pens shall locate those
36 confinement areas 200 feet or more from actual or potential residences
37 in the RPD or the residential property line RL, RH or RNC zones.
- 38 (d) Facilities for the indoor housing of dogs, or the outdoor housing of
39 domestic animals other than dogs, shall locate those confinement areas
40 100 feet or more from actual or potential residences in the RPD or from
41 the property line RMX, RL, RH or RNC zones.
- 42 (6) Refrigeration facilities for the purposes of storing dead animals must be self-
43 contained within the principal shelter structure.

1 b. *Limited Standards:*

- 2 (1) Facilities in the CMX and CC shall be located on parcels at least two acres in
3 size.
- 4 (2) Facilities with outdoor dog runs, kennels or pens shall locate those confinement
5 areas 200 feet or more from actual or potential residences or the residential
6 property line within RMX and RL zones.
- 7 (3) Facilities for the indoor housing of dogs, or the outdoor housing of domestic
8 animals other than dogs, shall locate those confinement areas 100 feet or more
9 from actual or potential residences or the property line in RMX and RL zones.

10 42. ***Animal Hospital.***

11 a. *General Standards:*

- 12 (1) Site plan approval shall be required.
- 13 (2) Facilities that house animals for more than 48 hours shall meet the general
14 requirements of an animal boarding facility for that zone, except for parcel
15 minimum size.
- 16 (3) Structures that house animals overnight must be adequately soundproofed and
17 constructed so there will be no emission of noise, odor, or chemicals detrimental
18 to the reasonable use and enjoyment of a neighboring property.
- 19 (4) Setbacks and buffer yards.
- 20 (a) A type "B" buffer yard shall be required along the side and rear
21 property lines for any facility having outdoor areas of animal
22 confinement.
- 23 (b) All waste disposal facilities (e.g. dumpsters, waste traps) shall be
24 screened and located at least 200 feet from any property in residential
25 use within an RMX, RL, RH or RNC boundary.
- 26 (c) Facilities with areas of animal confinement (runs, kennels, paddocks or
27 pens) shall locate those confinement areas 200 feet or more from
28 property in any residential use or property within RMX, RL, RH, or
29 RNC boundaries.

30 b. *Limited Standards:*

- 31 (1) All activities shall be performed or house within an enclosed building and not
32 located in a residential subdivision.

33 43. ***Animal Sales and Service.***

34 a. *General Standards:*

- 35 (1) Site plan approval shall be required.
- 36 (2) Facilities that house animals for more than 48 hours shall meet the requirements
37 of an "Animal boarding facility," except for parcel minimum size.
- 38 (3) Structures that house animals overnight must be adequately soundproofed and
39 constructed so there will be no emission of noise, odor, or chemicals detrimental
40 to any neighboring property.
- 41 (4) Setbacks and buffer yards.
- 42 (a) A type "B" buffer yard shall be required along the side and rear
43 property lines for any facility having outdoor areas of animal
44 confinement.

-
- 1 (b) All waste disposal facilities (e.g. dumpsters, waste traps) shall be
2 screened and located at least 200 feet from any property in residential
3 use within an RMX, RL, RH, or RNC boundary.
- 4 (c) Facilities with areas of animal confinement (runs, kennels, paddocks or
5 pens) shall locate those confinement areas 200 feet or more from
6 property in any residential use or property within RMX, RL, RH, or
7 RNC boundaries.

8 b. *Limited Standards:*

- 9 (1) All activities shall be performed or housed within an enclosed building.
10 (2) Outdoor ring with appropriate setbacks shall be permitted.

9/06/11 11 44. ***Campground and Day or Boarding Camp.***

12 a. *General Standards:*

- 13 (1) Site plan approval shall be required.
14 (2) Year-round residency within tents and recreational vehicles in campgrounds is
15 prohibited.
16 (3) Each campground shall provide the following service facilities for every 20
17 campsites. (Any fraction of 20 campsites shall be counted as 20.)
18 (a) Two flush-type toilets;
19 (b) Two lavatories; and
20 (c) Two showers with hot and cold running water.
21 (4) Separate facilities shall be provided for males and females.
22 (5) The facilities shall be conveniently located in one or more buildings.
23 (6) Facilities shall be constructed to prevent the penetration of moisture and
24 rainwater.
25 (7) Facilities shall be properly protected from damage by ordinary use, decay,
26 corrosion, termites, and other destructive elements.
27 (8) Campgrounds shall be kept free of litter, rubbish, and other flammable materials.
28 (9) No mobile recreational vehicle or camping trailer may be occupied for more
29 than three consecutive months.

30 b. *Conditional Standards:*

- 31 (1) In a CM zone, campgrounds greater than 15 campsites shall comply with the
32 conditional standards set forth herein.
33 (2) Minimum lot size shall be 10 acres.
34 (3) A minimum of 50 percent of the campground shall be reserved for Useable
35 Open Space. Camper sites shall not be permitted in required Useable Open
36 Space.
37 (4) All campsites shall have a minimum setback of 100 feet from property lines.

38 c. *Accessory Standards:*

- 39 (1) In a CM zone, the campground must be accessory to a Marina use.
40 (2) A campground established as an accessory use shall comply with all General
41 Standards, in addition to all accessory standards set forth herein, for a
42 campground and day or boarding camp.

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- 1 (3) Campgrounds shall be limited to a maximum of 15 campsites.
 - 2 (4) All campsites shall have a minimum setback of 50 feet from property lines.
 - 3 (5) Buffer yards shall be required in accordance with Section 63.3 of this
 - 4 Ordinance.

5 45. **Commercial Parking Facility.**

6 a. *General Standards:*

- 7 (1) Site plan approval shall be required.
- 8 (2) Stormwater management shall be required regardless of area of paved parking
- 9 lot.
- 10 (3) Facility shall provide sidewalk connections to adjacent properties and lighting
- 11 meeting the criteria of this Ordinance.
- 12 (4) At-grade facilities shall provide an interior landscaping ratio as required by
- 13 Chapter 63 (in addition to the buffer yard).
- 14 (5) Facility shall provide off-street queuing space for at least two cars waiting to
- 15 enter any lot having a controlled ingress point.
- 16 (6) Any at-grade facility shall provide a continuous "B" buffer yard at the perimeter
- 17 of the lot, excluding points of egress and ingress to the facility.
- 18 (7) Only 50 percent of the square foot area of a multistory parking structure shall be
- 19 included in the FAR calculation for a site.

20 b. *Limited Standards:*

- 21 (1) All impervious surfaces, including parking areas and travel aisles, shall allow or
- 22 shall drain to an area that allows infiltration of stormwater and pollutants and
- 23 shall utilize bioretention facilities within the parking lot to control quantity and
- 24 quality of stormwater run-off from the parking lot.
- 25 (2) Commercial parking facilities exclusively for storage of recreational vehicles or
- 26 watercraft on trailers are subject to the following:
 - 27 (a) Minimum five acre tract is required, and no more than 30 percent of the
 - 28 site may be occupied by the vehicle storage area. Area of parking lot,
 - 29 access roads, and required stormwater detention shall be deducted from
 - 30 the land area for calculation of residential density or floor area ratio.
 - 31 (b) Number of vehicles shall be 1 per 2,000 square feet of tract area with a
 - 32 maximum of 150 vehicles or trailered watercraft on a site.
 - 33 (c) Site shall be used for parking and storage of recreational vehicles and
 - 34 watercraft only. No overnight occupancy of any vehicle while parked
 - 35 is allowed. No sale, rental, or maintenance of parked vehicles is
 - 36 allowed on site. No other commercial use of the property of any type
 - 37 shall occur on the site unless use is listed as a permitted use in Schedule
 - 38 50.4.
 - 39 (d) Parking area shall be fully screened from view from adjacent properties
 - 40 by a fence, dense evergreen vegetation, or combination of these.
 - 41 (e) Security lighting, if provided, shall be directed down.

42 c. *Conditional Standards:*

- 43 (1) Facility shall comply with both general and limited standards.

44 d. *Accessory Standards:*

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- 1 (1) Any parking lot required for a permitted use may be used as a commercial
2 parking facility provided it meets the General Standards criteria in paragraph 1
3 above.
- 4 46. **Conference Facility.**
- 5 a. *General Standards:*
- 6 (1) Site plan approval shall be required.
- 7 b. *Conditional Standards:*
- 8 (1) Evening and weekend operations may be permitted as long as such operations
9 do not have an adverse impact on adjoining uses.
- 10 (2) In the RPD, the appearance of the Conference Facility must preserve the rural
11 character by either being designed to resemble an agricultural building or by
12 being setback behind fields in active agricultural use or screened by existing
13 forest so that no non-agricultural features are obvious to passersby.
- 14 (3) In other zones, the appearance must preserve the character of the neighborhood.
- 15 47. **Construction Materials and Equipment Storage.**
- 16 a. *General Standards.*
- 17 (1) Site plan approval shall be required.
- 18 (2) No debris shall be stockpiled or landfilled.
- 19 (3) No on-site sale of materials is allowed.
- 20 b. *Limited Standards:*
- 21 (1) In the I zone, a perimeter fence or berm is required in addition to the buffer yard
22 in accordance with Chapter 63 to screen stockpile, equipment, or materials from
23 a public road and from adjacent dissimilar uses.
- 24 (2) In the RPD zone, no stockpile, equipment or materials shall be visible from a
25 public road or an adjacent property.
- 26 c. *Conditional Standards:*
- 27 (1) In the Critical Area, stockpiling of marine related construction equipment and
28 materials is not allowed in the Critical Area buffer unless in a Buffer
29 Management overlay. Temporary staging shall be allowed in the Critical Area
30 buffer in the LDA and IDA for loading and offloading barges used for
31 transportation of construction materials and equipment only upon approval of a
32 buffer management plan.
- 33 48. **Convenience Store.**
- 34 a. *General Standards:*
- 35 (1) Site plan approval shall be required.
- 36 (2) When facility has accessory motor fuel sales, the number of vehicle fueling
37 positions shall meet the requirements for Motor Fuel Sales.
- 38 (3) Where adjacent to existing residential or office uses, provide a "C" buffer yard.
- 39 b. *Limited Standard:*
- 40 (1) In RSC and RCL zones, the use shall not occupy more than 3,500 square feet on
41 the site.
- 42 c. *Accessory Standards:*

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- 1 (1) A facility to provide incidentals to the boating public may serve a conforming
2 Marina use.
- 3 (2) Use shall not occupy more than 10 percent of the square footage of the structure
4 in which it is located or 500 square feet, whichever is greater.
- 5 49. **Corporate Campus.**
- 6 a. *General Standards:*
- 7 (1) Site plan approval shall be required.
- 8 50. **Fairgrounds and Flea Markets.**
- 9 a. *General Standards:*
- 10 (1) Site plan approval shall be required.
- 11 (2) Permanent structures including stalls and display structures shall be permitted
12 and inspected prior to use and occupancy and shall meet all of the requirements
13 of the building code.
- 14 (3) Off street parking shall be required. Any overflow on-street parking shall not
15 cause a hazard or nuisance for residents of the neighborhood.
- 16 51. **Financial Institution.**
- 17 a. *General Standards:*
- 18 (1) Site plan approval shall be required.
- 19 52. **Funeral and Interment Service.**
- 20 a. *General Standards:*
- 21 (1) Site plan approval shall be required.
- 22 b. *Conditional Standards:*
- 23 (1) Crematories for small domestic pets only may be approved as an accessory use
24 to a Cemetery in the RPD on the condition that no services, gatherings or areas
25 of public accommodation are provided.
- 26 53. **Golf Course.**
- 27 a. *General Standards:*
- 28 (1) Site plan approval shall be required.
- 29 b. *Conditional Standards:*
- 30 (1) Golf course facilities shall be part of and integrated into the overall design of the
31 principal use.
- 32 (2) Applicant shall demonstrate that the clearing of forest, alteration of natural
33 drainage patterns, and use of non-native plant species for landscaping have been
34 minimized to the extent practicable in the design of the course.
- 35 (3) Integrated pest management shall be the primary method for controlling insects
36 and pests at the facility.
- 37 c. *Limited Standards:*
- 38 (1) In an RNC, the use is prohibited unless it can be demonstrated that similar
39 legally created uses currently exist in the RNC neighborhood surrounding the
40 proposed use.
- 41 54. **Laboratory.**

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- 1 a. *General Standards:*
- 2 (1) Site plan approval shall be required.
- 3 55. ***Lodging, Bed and Breakfast Inn.***
- 4 a. *General Standards:*
- 5 (1) Site plan approval shall be required.
- 6 (2) The number of guest units shall not be more than six in any single structure or
- 7 more than 10 on a parcel without obtaining a conditional use approval.
- 8 (3) Exterior appearance.
- 9 (a) Where the original structure existed prior to the effective date of this
- 10 Ordinance, the exterior changes to existing site structures shall be
- 11 minimized. Extension or enlargement of principal and accessory
- 12 structures may not exceed 50 percent of the gross floor areas of each
- 13 individual building above what existed on the effective date of this
- 14 Ordinance.
- 15 (b) When a new structure is constructed, it shall have the appearance of a
- 16 single family dwelling.
- 17 (4) The parking area shall be screened from the view of adjacent properties by a
- 18 fence, dense evergreen vegetation or combination of these.
- 19 56. ***Lodging, Hotel and Motel.***
- 20 a. *General Standards:*
- 21 (1) Site plan approval shall be required.
- 22 b. *Accessory Standards:*
- 23 (1) Facility must serve a conforming Marina use.
- 24 57. ***Maintenance and Repair Service, Major.***
- 25 a. *General Standards:*
- 26 (1) Site plan approval shall be required.
- 27 b. *Limited Standards:*
- 28 (1) Facility shall be 7,500 square feet maximum unless the applicant obtains a
- 29 conditional use approval from the Board of Appeals.
- 30 c. *Accessory Standards:*
- 31 (1) In a CM zone, facility must be accessory to a conforming Marina use.
- 32 58. ***Maintenance and Repair Service, Minor.***
- 33 a. *General Standards:*
- 34 (1) Site plan approval shall be required.
- 35 b. *Limited Standards:*
- 36 (1) Facility shall not exceed 5,000 square feet.
- 37 c. *Accessory Standards:*
- 38 (1) In a CM zone, the facility must be accessory to a conforming Marina use.
- 39 59. ***Manufactured Home Sales.***
- 40 a. *General Standards:*

1 (1) Site plan approval shall be required.

2 60. **Fuel Sales.**

3 a. *General Standards:*

4 (1) Site plan approval shall be required.

5 (2) Filling station pumps may occupy required setback areas, provided they are not
6 less than 20 feet from right-of-way lines.

7 (3) The area under a canopy roof or 300 square feet per fuel dispensing station
8 whichever is greater shall be included when calculating overall FAR on the site.

9 (4) Facility shall provide sufficient queuing space for anticipated volume over the
10 peak 15-minute period (based on an analysis of the anticipated drive-through
11 traffic volume submitted by the applicant).

12 (5) Openings for filling tanks and vents shall be located a minimum of two feet
13 above the 100-year flood elevation or V-zone elevation (as applicable) and be
14 protected from drive aisles and associated traffic. Flood Elevation Certificate
15 shall be required. Tanks in the floodplain shall be anchored to prevent floating.

16 b. *Limited Standards:*

17 (1) Driveways shall not exceed 30 feet in width and shall be the minimum width
18 necessary to accommodate the projected traffic flow.

19 c. *Accessory Standards:*

20 (1) In a CM zone, facility must be accessory to a conforming Marina use and shall
21 be primarily for sale to persons in watercraft.

22 (2) Facility shall have no more than four fueling positions. Fuel storage tanks shall
23 be located outside the buffer, in an approved spill containment structure.

24 61. **Motor Vehicle Maintenance Service, Major.**

25 a. *General Standards:*

26 (1) Site plan approval shall be required.

27 (2) Adverse impacts on water quality from structures or conveyances shall be
28 minimized.

29 b. *Limited Standards.* In RSC, RCL, and VMX zones:

30 (1) All repair activities shall be housed within an enclosed building.

31 (2) Facility shall be 7,500 square feet maximum unless the Board of Appeals grants
32 a conditional use approval.

33 c. *Accessory Standards:*

34 (1) Facility shall not exceed 25 percent of the square footage of the principal use on
35 the property, up to 4,000 square feet maximum.

36 (2) In a CM zone, facility must serve a conforming Marina use and conform to the
37 following:

38 (a) All impervious surfaces, including parking areas, boat yards, and
39 forklift and travel-lift aisles, shall allow or shall drain to an area that
40 allows infiltration of stormwater and pollutants.

41 (b) Out-of-water work or storage areas shall be located a minimum of 200
42 feet from any residential district boundary.

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- 1 62. **Motor Vehicle Maintenance Service, Minor.**
- 2 a. *General Standards:*
- 3 (1) Site plan approval shall be required.
- 4 (2) New and expanded auto washing facilities shall install wash water recycling
- 5 systems.
- 6 b. *Limited Standards:*
- 7 (1) The facility shall be 5,000 square feet maximum unless the Board of Appeals
- 8 grants a conditional use approval.
- 9 c. *Accessory Standards:*
- 10 (1) The facility shall not exceed 25 percent of the square footage of the principal use
- 11 on the property, up to 2,500 square feet maximum.
- 12 (2) Facility must be accessory to a conforming Marina use.
- 13 (3) All impervious surfaces, including parking areas, boat yards, and forklift and
- 14 travel-lift aisles, shall allow or shall drain to an area that allows infiltration of
- 15 stormwater and pollutants.
- 16 (4) Out-of-water work or storage areas shall be located a minimum of 200 feet from
- 17 any residential district boundary.
- 18 63. **Office.**
- 19 a. *General Standards:*
- 20 (1) Site plan approval shall be required.
- 21 b. *Limited Standards:*
- 22 (1) Establishment shall not exceed 15,000 square feet.
- 23 c. *Accessory Standards:*
- 24 (1) Facility shall not exceed 25 percent of the square footage of the principal use on
- 25 the property up to 2,500 square feet maximum.
- 26 64. **Personal Improvement Service.**
- 27 a. *General Standards:*
- 28 (1) Site plan approval shall be required.
- 29 b. *Limited Standards:*
- 30 (1) Limited to sailing, scuba or other water based personal services.
- 31 c. *Accessory Standards:*
- 32 (1) Establishment shall not exceed 2,500 square feet.
- 33 65. **Personal or Business Service.**
- 34 a. *General Standards:*
- 35 (1) Site plan approval shall be required.
- 36 66. **Personal Storage.**
- 37 a. *General Standards:*
- 38 (1) Site plan approval shall be required.
- 39 (2) A perimeter fence or berm and "C" buffer shall be required for screening of
- 40 facility from a public road and from adjacent dissimilar uses.

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- 1 (3) Lighting shall be directed down and shall not shine directly onto an adjacent
2 property.
- 3 (4) No on-site retail sales shall be permitted.
- 4 b. *Limited Standards:*
- 5 (1) Activities shall be enclosed within a building no larger than 5,000 square feet in
6 the VMX or 25,000 square feet in the TMX and CMX.
- 7 67. ***Recreational Facility, Major.***
- 8 a. *General Standards:*
- 9 (1) Site plan approval shall be required.
- 10 68. ***Recreational Facility, Motor Sports Facility.***
- 11 a. *General Standards:*
- 12 (1) Site plan approval shall be required.
- 13 b. *Limited Standards:*
- 14 (1) Structures and Buildings.
- 15 (a) No permanent structure or building greater than a single story in height
16 shall be located within 100 feet of the property line. Any structure or
17 building having a footprint in excess of 1,000 square feet shall be
18 setback a minimum of 200 feet from the property line.
- 19 (b) Grandstands shall be located a minimum of 400 feet from the property
20 line. The applicant shall specify the ultimate capacity for the
21 grandstand. Capacity may be approved in phases to avoid need to
22 revise the conditional use for expansion up to the ultimate capacity.
- 23 (c) No permanent structure shall have a roofline height of more than 45
24 feet.
- 25 (d) The floor area ratio for structures located on the site shall not exceed
26 that allowed within the zoning district.
- 27 (2) Impervious Surfaces, Open Space, and Buffers.
- 28 (a) The total area of impervious surface on the property shall be limited to
29 40 percent of the entire property.
- 30 (b) A minimum of 15 percent of the property shall be maintained as open
31 space. No new structures or activities of any type shall be undertaken
32 in the open space area.
- 33 (c) The open space shall include a wooded buffer area for a width of 30
34 feet surrounding the perimeter of the property.
- 35 1. The buffer shall not apply to any area of a site that adjoins and
36 abuts a property in the same use category.
- 37 2. Except for approved points of ingress or egress, no proposed
38 or future disturbance, grading, or construction of any type
39 shall be conducted within the buffer area.
- 40 3. If the buffer is not vegetated with natural forest vegetation,
41 planting of vegetation to achieve the equivalent to a "C" buffer
42 yard shall be required.
- 43 4. The buffer area shall be preserved in a natural vegetative state.
44 The buffer may be credited toward forest conservation

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- 1 requirements on the site in accordance with the provisions of
2 Chapter 75.
- 3 (3) Lighting and Noise Limitations.
- 4 (a) The maximum height of any lighting poles shall be 45 feet, with the
5 exception of a row of lighting poles located within 120 feet of the
6 actual racing surface and running parallel with the racing surface,
7 which poles may be 70 feet in height.
- 8 1. Lighting from these poles shall be directed internally and shall
9 not project light into the 30-foot buffer area. All shall be
10 directed so the lighting does not extend into the permanent
11 buffer area.
- 12 2. All exterior lighting except lighting limited for security
13 purposes, shall be used only during events.
- 14 (b) The facility shall comply with all state regulations concerning noise
15 levels. All loudspeakers shall be used only during events. All speakers
16 shall be directed and located to project internally so as to reduce any
17 noise impacts on adjoining properties.
- 18 (4) Parking / Traffic Control.
- 19 (a) Access to the facility shall be from an arterial or higher classification
20 road, and the entrance(s) shall comply with state and county
21 regulations.
- 22 (b) Parking on-site shall be restricted to the designated parking areas.
- 23 (c) Temporary overflow off-site parking shall be allowed for major
24 regional and national events.
- 25 1. Temporary off-site parking proposals shall be specified as to
26 location and frequency (number of total events per year).
- 27 2. If off-site parking is permitted, the operator of the facility shall
28 be required to provide a proper number of qualified traffic
29 control officers to assist pedestrian and automobile traffic and
30 avoid congestion on public highways.
- 31 (5) Signage. The operator of the facility shall be allowed one externally lighted sign
32 located at or near the entrance. The maximum size shall be 12 feet by 16 feet.
33 The sign shall not be lighted beyond 10:00 p.m. except that it may remain
34 lighted for 1 hour after the end of the last event if an event is being held past
35 10:00 p.m.
- 36 (6) Repair / Maintenance Facilities. Except for those facilities and/or structures
37 intended to serve (a) registered competitors' or participants' equipment and (b)
38 equipment to be operated to maintain the facility, there shall be no automotive
39 repair facilities on the property.
- 40 (7) Recreational Vehicles. Participants may utilize recreational vehicles that have
41 self-contained water/sanitary facilities for overnight stays during multi-day
42 events.
- 43 (8) Compliance with Laws. The facility shall be operated in compliance with all
44 industry standards and all applicable state and federal statutes, rules, and
45 regulations governing the activity being sponsored and conducted at the facility.
- 46 (9) Future Buildings / Construction. Any construction activities or the expansion,
47 modification, or erection of any permanent structure associated with or used for

activities on the site shall be undertaken in full compliance with all state and county statutes, ordinances, rules and regulations applicable to such activity.

69. **Recreational Facility, Minor indoor.**

a. *General Standards:*

- (1) Site plan approval shall be required.
- (2) For areas outside DMX zones, that are adjacent to residential uses, provide a "C" buffer yard.
- (3) In the I zone, only warehouse style buildings and uses, such as bowling alleys, roller or skating rinks, enclosed courts and gymnasiums, shall be permitted.

b. *Limited Standards:*

- (1) Use shall be limited in the RCL to Health or fitness clubs and gyms.

c. *Conditional Standards:*

- (1) Use shall be limited in the RPD to shooting galleries.
- (2) Maximum occupant load of the building must not exceed 99 persons.
- (3) Evening and weekend operations may be permitted as long as such operations do not have an adverse impact on adjoining uses.
- (4) In the RPD, the appearance of the Recreation Facility must preserve the rural character by either being designed to resemble an agricultural building or by being setback behind fields in active agricultural use or screened by existing forest so that no non-agricultural features are obvious to passersby.

70. **Recreational Facility, Minor Outdoor.**

a. *General Standards:*

- (1) Site plan approval shall be required.

b. *Limited Standards:*

- (1) Facilities shall be located at least 200 feet outside of any residential district boundary.
- (2) Where adjacent to residential uses, provide a "C" buffer yard.
- (3) Normal hours of operation for any land or building used for a minor outdoor facility shall be between 8:00 a.m. and 12:00 p.m.
- (4) Lighting shall be in accordance with Section 61.3 of this Ordinance.
 - (a) Other than minimal security lighting, exterior lighting shall be extinguished outside of hours of operation.

c. *Conditional Standards:*

- (1) Evening and weekend operations may be permitted as long as such operations do not have an adverse impact on adjoining uses.
- (2) In the RPD, the appearance of the Recreation Facility must preserve the rural character by either being designed to resemble an agricultural building or by being setback behind fields in active agricultural use or screened by existing forest so that no non-agricultural features are obvious to passersby.

71. **Rental and Leasing.**

a. *General Standards:*

- (1) Site plan approval shall be required.

-
- 1 b. *Limited Standards:*
- 2 (1) Equipment rental shall be limited to boats, watercraft, and equipment or tools
- 3 necessary to perform on-site repair and maintenance of watercraft and related
- 4 items.
- 5 72. ***Research and Development Service.***
- 6 a. *General Standards:*
- 7 (1) Site plan approval shall be required.
- 8 b. *Limited Standards:*
- 9 (1) All activities shall occur or be housed entirely within an enclosed structure.
- 10 73. ***Restaurant.***
- 11 a. *General Standards*
- 12 (1) Site plan approval shall be required.
- 13
- 14 b. *Accessory Standards:*
- 15 (1) In I zones, the establishment shall be limited to 10 percent of the area of the
- 16 principal industrial use.
- 17 (2) In an OBP zone, the establishment shall be limited to 25 percent of the area of
- 18 the principal use or 2,500 square feet, whichever is less.
- 19 (3) In a CM zone, facility must be accessory to a conforming Marine use.
- 20 73a. Micro-Brewery.
- 21 a. General Standards :
- 22 (1) Site Plan approval shall be required.
- 23 73b. Pub-Brewery.
- 24
- 25 a. General Standards :
- 26
- 27 (2) Site Plan approval shall be required.
- 28
- 29 74. ***Restaurant, Fast food.***
- 30 a. *General Standards:*
- 31 (1) Site plan approval shall be required.
- 32 (2) Where provided, outdoor seating areas shall have a minimum width of 20 feet
- 33 and at least 600 square feet accessible from the public entrance to the building
- 34 without crossing a travel lane.
- 35 b. *Limited Standards:*
- 36 (1) Driveways and travel lanes shall not exceed 30 feet in width and shall be the
- 37 minimum width necessary to accommodate the projected traffic flow.
- 38 75. ***Retail Sales or Service, Vehicle.***
- 39 a. *General Standards:*
- 40 (1) Site plan approval shall be required.

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2/20/14

1 b. *Limited Standards:*

2 (1) Areas where retail sales and rental activities are conducted shall be enclosed
3 within a building no larger than 5,000 square feet. This shall not apply to
4 vehicle inventory in an open air lot on the same premises.

5 c. *Accessory Standards:*

6 (1) Sales shall be restricted to sale of and service for boats, other watercraft, and
7 marine engines.

8 76. ***Retail Sales General.***

9 a. *General Standards:*

10 (1) Site plan approval shall be required.

11 (2) Storage of all materials that produce odors or attract pests shall be located a
12 minimum of 100 feet from any residential district boundary.

13 (3) No building shall measure longer than 200 feet on any continuous plane.
14 Building offsets shall be provided along each building facade to relieve the
15 visual effect of single long walls. Rooflines and setbacks shall also be varied
16 between attached structures. Structure heights must provide further visual relief
17 to break up the apparent mass of the structure. No complex of attached
18 structures shall have an elevation with dimension in excess of 880 linear feet.

19 77. ***Retail Sales, Limited.***

20 a. *General Standards:*

21 (1) Site plan approval shall be required.

22 (2) No building shall measure longer than 150 feet in any continuous plane.
23 Building offsets shall be provided along each building to relieve the visual effect
24 of single long walls. Rooflines and setbacks shall also be varied between
25 attached structures. Structure heights must provide further visual relief to break
26 up the apparent mass of the structure. No complex of attached structures shall
27 have an elevation with dimension in excess of 880 linear feet.

28 b. *Accessory Standards:*

29 (1) In RMX, I, and OBP zones, the facility shall be less than 25 percent of the
30 square footage of the principal use on the property and shall not exceed 2,500
31 square feet.

32 (2) In a CM zone, the facility must be accessory to a conforming Marina use and
33 shall primarily serve slipholders and patrons of the Marina and no more than
34 five percent of the facility area, including outside yards, may be for retail sales.

35 78. ***Take-out Food and Beverage Sales.***

36 a. *General Standards:*

37 (1) Site plan approval shall be required.

38 b. *Accessory Standards:*

39 (1) Establishment shall be limited to 25 percent of the area of the principal use or
40 2,500 square feet, which ever is less.

41 (2) In a CM zone, facility must be accessory to a conforming Marina use and shall
42 primarily serve slipholders and patrons of the Marina.

43 79. ***Tavern.***

44 a. *General Standards:*

-
- 1 (1) Site plan approval shall be required.
- 2 b. *Accessory Standards:*
- 3 (1) Facility must be accessory to a conforming Marina use.
- 4 80. ***Warehousing and Storage.***
- 5 a. *General Standards.:*
- 6 (1) Site plan approval shall be required.
- 7 81. ***Wholesaling and Distribution Center.***
- 8 a. *General Standards:*
- 9 (1) Site plan approval shall be required.
- 10 (2) A "C" buffer shall be provided for screening of facility from a public road and
- 11 from adjacent dissimilar uses.
- 12 82. ***Extractive Industry.***
- 13 a. *General Standards:*
- 14 (1) Site plan approval shall be required.
- 15 b. *Limited Standards.*
- 16 (1) When established as a permitted use, extraction, processing, and removal of
- 17 sand, gravel, or stone, stripping of top soil (but not including stripping of sod),
- 18 and borrow pits, shall be subject to the following standards:
- 19 (a) The total affected area to be mined on any tract or parcel shall not
- 20 exceed five acres. Any mining beyond a total mined area of five (5)
- 21 acres on a tract or parcel may be permitted only upon approval of a
- 22 conditional use by the Board of Appeals.
- 23 (b) No gravel processing equipment may be allowed for excavation
- 24 established as a permitted use, and only hand tools, trucks, bulldozers,
- 25 loaders and similar equipment may be utilized on the site.
- 26 (c) The mined area may be no closer than one hundred and fifty (150) feet
- 27 to any boundary line.
- 28 (d) If the mined area exceeds 5,000-sq. ft., a copy of the Soil Conservation
- 29 Service plan and/or grading plan shall be submitted. A zoning permit
- 30 shall be required for all projects of less than five (5) acres that exceed
- 31 5,000 sq. ft.
- 32 c. *Conditional Standards:*
- 33 (1) Extraction operations shall be located and conducted in a manner that minimizes
- 34 their environmental and visual impacts.
- 35 (2) All structures and extraction operations areas shall be set back not less than 200
- 36 feet from all external property lines. Setbacks may be reduced to 100 feet from
- 37 property lines in an I district. Equipment may be stored not less than 100 feet
- 38 from adjacent property lines and not less than 75 feet from adjacent rights-of-
- 39 way.
- 40 (3) A "B" buffer yard, specified, shall be provided along adjacent public rights-of-
- 41 way and at adjacent lot lines. This requirement may be reduced or eliminated
- 42 along lot lines adjoining other extractive industry, limited or general industry, a
- 43 major or minor utility, or general agricultural industry use classifications.

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- 1 (4) The Board of Appeals may require the applicant to submit a professionally
2 prepared traffic study analyzing the impact of the proposed extractive industry
3 on the surrounding road network and may require specific access and road
4 improvements on a case by case basis.
- 5 (5) Production tanks shall be located within a containment berm designed to
6 impound 100 percent of the fluid capacity of the largest impoundment tank.
- 7 (6) Any building (including temporary processing plants and equipment used for
8 extracting, processing, or stock piling of sand, gravel, stone, or similar products)
9 shall be deemed temporary. Such building shall be dismantled and removed
10 within a period of four months following cessation of operations.
- 11 (7) All equipment shall be constructed, maintained, and operated in a manner that
12 minimizes noise, vibration, or dust. Dust reduction treatments shall be specified
13 and maintained on all access ways or roads within premises.
- 14 (8) Surety for repair and maintenance of public roads affected by the operation may
15 be required in an amount to be determined by the Director of Public Works and
16 Transportation.
- 17 (9) The proposed extraction must be in accordance with the plan for the
18 development of the property, or a use otherwise permitted for the specific zoning
19 district and the reclamation plan as described below.
- 20 (10) An operation plan that includes the method and schedule for extractive activity
21 and completion, production, abandonment, and reclamation phases of the
22 operation is required. The operation plan shall include:
- 23 (a) Proposed waste disposal methods and emergency response systems.
- 24 (b) A drainage, dust, and erosion control plan.
- 25 (c) An access plan that details the capacity of all access roads and their
26 suitability for accommodating estimated loads.
- 27 (d) A reclamation plan that includes a schedule for proposed grading,
28 revegetation, or other appropriate measures to restore the surface upon
29 completion of operations. Proposed future use shall be included, as
30 reflected in the Comprehensive Plan, in addition to a plan for cleanup
31 necessary for the future use.

32 83. ***Production Industry, Custom.***

33 a. *General Standards:*

- 34 (1) Site plan approval shall be required.

35 b. *Limited Standards:*

- 36 (1) Material storage areas shall be fully screened from dissimilar uses on adjoining
37 properties.

- 38 (2) Sawmills shall be subject to the following additional standards:

- 39 (a) Stationary sawmills in RSC, RCL, VMX, TMX, and CMX zones shall
40 be entirely enclosed within a building.

- 41 (b) Portable sawmills for cutting timber grown on the premises shall be
42 permitted in any zone, provided the sawmill is removed from the
43 property at the conclusion of the milling of the on-site timber.

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- 1 84. **Production Industry, General.**
- 2 a. *General Standards:*
- 3 (1) Site plan approval shall be required.
- 4 b. *Limited Standards:*
- 5 (1) A “C” buffer shall be provided for screening the facility from public roads and
6 from adjacent dissimilar uses.
- 7 (2) In RPD zones, a sawmill is the only activity permitted by right, and production
8 of manufactured homes is the only activity that may be permitted as a
9 conditional use.
- 10 85. **Production Industry, Limited.**
- 11 a. *General Standards:*
- 12 (1) Site plan approval shall be required.
- 13 b. *Limited Standards:*
- 14 (1) All activities, including storage of materials, goods, and supplies, must be inside
15 an enclosed building.
- 16 86. **Slaughterhouse.**
- 17 a. *General Standards:*
- 18 (1) Site plan approval shall be required.
- 19 b. *Conditional Standards:*
- 20 (1) Site shall have direct access to a minor or principal arterial roadway.
- 21 (2) Waste, by-products, or any decomposable residue that results from the
22 slaughtering of animals, must be refrigerated while on the premises. Waste or
23 any decomposable residue from the slaughterhouse operation may not be
24 disposed of by spreading on and/or plowing under on a farm unless the farm
25 contains at least 100 acres and Health Department approval is obtained.
- 26 (3) Adequate measures must be developed for the abatement of offensive and
27 obnoxious odors, dust, smoke, or similar nuisances. Adequate measures meeting
28 construction code requirements for a sound level reduction (SLR) of 25 decibels
29 (dB) must be installed for the abatement of noises.
- 30 (4) In RPD zones, Slaughterhouse uses may be located on a minimum of 20 acres or
31 a minimum of 100 acres if the slaughterhouse includes a feedlot. Stock pens or
32 building associated with the slaughterhouse operation not meeting the SLR 25
33 requirements must be a minimum of 300 feet from any public road right-of-way
34 and 500 feet from any other property line.
- 35 (5) In I zones:
- 36 (a) Minimum lot size shall be five acres.
- 37 (b) All structures shall be located a minimum 200 feet from property lines,
38 except that if the facility includes a retail sales outlet, the front of the
39 retail sales outlet may be as close as 50 feet from the right-of-way
40 boundary of a major collector street.
- 41 (c) Holding of live animals is not to exceed 24 hours, except as may be
42 required by the Department of Agriculture or the Health Department.

1 87. **Wrecking and Salvage.**

2 a. *General Standards:*

- 3 (1) Site plan approval shall be required.
- 4 (2) A "C" buffer shall be provided outside of a 12-foot tall perimeter stockade fence
5 (or similar opaque fence type) that is located at least 25 feet inside the boundary
6 of the property. Egress and ingress into the salvage yard shall be via gates at
7 least 8 feet tall.
- 8 (3) No junk vehicles, parts or materials shall be located outside of or be visible
9 above the fence.
- 10 (4) Oils, petroleum products and other liquids shall be collected from salvaged
11 materials and equipment and disposed of in accordance with applicable
12 regulations.
- 13 (5) Storm water management shall be required regardless of area of salvage yard.
14 Design for protection of surface water and groundwater quality shall be
15 required, especially from heavy metals, and petrochemicals in runoff.
- 16 (6) Unless authorized by the Board of County Commissioners as a PUD, hours of
17 operation shall not exceed 7:00 am to 6:00 p.m. Monday through Saturday.
18 Facility shall be closed and locked outside hours of operation.

19 88. **Airport, Landing Strip, and Heliport.**

20 a. *General Standards:*

- 21 (1) Site plan approval shall be required.
- 22 (2) Publicly-owned airports, landing strips, and heliports are permitted in
23 accordance with an adopted Airport Master Plan. All other airports, landing
24 strips, and heliports may be permitted as a conditional use in accordance with
25 Chapter 25 of this Ordinance.
- 26 (3) The site plan must show all existing and/or proposed buildings, hangars,
27 runways, tie-down areas, fuel storage and pumping areas, fencing, employee and
28 public parking, public transit loading and unloading areas, screening, vehicle
29 ingress and egress areas, and off-street pedestrian pickup space.
- 30 (4) The site plan shall also show topography and elevations of the highest point or
31 projection for structures and towers (existing and/or proposed) surrounding the
32 runway/landing area for a distance of
- 33 (a) 20,000 feet from the runways of an airport with at least one runway
34 more than 3,200 feet in length; or
- 35 (b) 10,000 feet from the runways of an airport with at least one runway no
36 more than 3,200 feet in length; or
- 37 (c) 5,000 feet from the landing and take off areas of each heliport.
- 38 (5) Minimum setbacks for the facility shall be determined by the clearance criteria
39 of Chapter 43. The height of existing structures in the vicinity of the proposed
40 facility shall be evaluated when siting for new airports, airfields, landing strips
41 and heliports
- 42 (6) Minimum lot size for an airport shall be 10 acres and for a heliport shall be two
43 acres.

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- 1 89. ***Antennae and Microwave Equipment.***
- 2 a. *General Standards:*
- 3 (1) Site plan approval shall be required.
- 4 b. *Limited Standards:*
- 5 (1) No part of an amateur radio antenna shall be constructed within required yards
6 or setback areas.
- 7 (2) No amateur radio antenna shall be constructed so it exceeds a height of 100 feet
8 above finished ground level grade.
- 9 (3) Satellite Dish. Satellite dishes mounted on structures shall not be regulated. A
10 freestanding satellite dish installed on a lot in any district shall comply with the
11 following criteria:
- 12 (a) Satellite dishes in excess of six feet in height shall be set back 10 feet
13 from property lines.
- 14 (b) No satellite dish shall exceed the maximum building height for the
15 district in which the dish is located.
- 16 (c) All wires and/or cables necessary for operation of the dish or reception
17 of the signal shall be placed underground, except for wires or cables
18 attached flush with the surface of a building or the structure of the dish.
- 19 (d) No advertising or highly reflective surfaces shall be permitted.
- 20 (4) Microwave Receiving Transmitting and Relay Antennae.
- 21 (a) Microwave antennae and/or equipment shall not be installed in any
22 required front, street or side setback area.
- 23 (b) No antenna shall exceed the maximum building height by more than 10
24 feet for the district in which the antenna is located.
- 25 (c) All wires or cables necessary for the operation of the antenna or
26 reception of the signal shall be placed underground, except those wires
27 or cables attached flush with the surface of a building or structure of the
28 antenna.
- 29 (d) Landscaping or solid screening shall be placed around the base of any
30 antenna and/or equipment to screen the antenna and/or equipment from
31 view and to provide a physical separation between the antenna and/or
32 equipment and any pedestrian or vehicular circulation.
- 33 (e) Notwithstanding subpart b. (2), above, a microwave transmitting or
34 relay antenna may extend to a height of 40 feet above a building in the
35 I-zone, if roof-mounted.
- 36 90. ***Communication Tower, Public Safety or Other Non-Commercial.***
- 37 a. *General Standards:*
- 38 (1) Site plan approval shall be required.
- 39 (2) Purpose. In balancing the interests of County residents, tower contractors,
40 telecommunications providers and telecommunications customers, and for the
41 general health, safety, and welfare of the public, these regulations are intended
42 to:
- 43 (a) Provide for the appropriate location and development of
44 communication towers by maximizing the use of any new and existing
45 towers, minimizing the need for new towers, encouraging the use of

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- 1 alternative tower structures or tower sites, and minimizing the number
2 of towers in the County. (Note: The term “existing towers” includes
3 towers already constructed and in use, as well as towers submitted to
4 the St. Mary’s County Department of Land Use and Growth
5 Management for review and approval.) The Department of Land Use
6 and Growth Management will continuously maintain a list of existing
7 towers, including owner points of contact, and shall make this list
8 available to all new tower applicants; and
- 9 (b) Avoid potential damage to adjacent properties from tower or antennae
10 failure through engineering and careful siting of tower structures and
11 antennae; and
- 12 (c) Minimize the adverse visual impacts of communication towers through
13 careful siting, design, screening, and camouflage; and
- 14 (d) Ensure that proposed siting and development of communication towers
15 is done in a reasonable manner, that is, not to the detriment of the zone
16 in which it is located and not contrary to the intent of the
17 Comprehensive Plan. The preference of the Board of County
18 Commissioner’s is for communication towers to be sited on County or
19 other publicly owned property. If this is not technically practical or
20 feasible, then the preference is for siting communication towers on
21 properties zoned for commercial and industrial purposes. If the facility
22 is proposed on property zoned residential or Rural Preservation
23 District, the design and siting shall include measures to preserve the
24 rural and/or residential character of the area; and
- 25 (e) To encourage private/public partnerships for communications facilities,
26 where appropriate, that promote the communications needs of the
27 County.
- 28 (3) All communication towers, structures and equipment shall meet or exceed
29 current standards and regulations of the FAA and the FCC. Pursuant to Federal
30 Communications Commission Regulations 1.1301-1.1319, as amended from
31 time to time, communication towers shall be subject to the provisions of the
32 National Environmental Policy Act (NEPA).
- 33 (4) Approval of proposals for tower construction shall be subject to satisfactory
34 completion of an aeronautical study. The resulting FAA aeronautical study shall
35 address the following:
- 36 (a) What impact the construction of the tower will have on the Airport’s
37 current approach minimums based on a minimum descent altitude and
38 visibility;
- 39 (b) What potential impact on the planned improvements will be realized in
40 accordance with the Airport Master Plan; and
- 41 (c) Assurance that the FAA Flight Procedures Branch has also made a
42 determination of whether there is an incompatibility with the published
43 instrument approach procedures.
- 44 (5) Applicants shall file a Notice of Proposed Construction or Alteration, FAA Form
45 #7460-1 (as amended from time to time) with the Federal Aviation
46 Administration as required by the FAA or applicable Federal law, and forward
47 copies of the form and any FAA response received, via first-class mail, postage
48 pre-paid to:
- 49 (a) St. Mary’s County Department of Land Use and Growth Management,
50 P.O. Box 653, Leonardtown, MD 20650;

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- 1 (b) St. Mary's County Regional Airport at St. Mary's (attn: Airport
2 Manager) 44200 Airport Road, California, MD, 20619; and
- 3 (c) Department of the Navy, Commanding Officer, Naval Air Station,
4 22268 Cedar Point Road, Unit NASAD, Patuxent River, MD 20670-
5 1154.
- 6 (6) To the extent permitted by law, no tower or equipment or antennae attached
7 thereto shall cause localized interference with reception of television and radio
8 broadcasts, nor shall any tower or equipment or antennae attached thereto
9 interfere with existing lines of communication used for public safety purposes.
- 10 (7) Minimum site size, setbacks, and buffers shall be identical to those required for
11 commercial communication towers.
- 12 (8) The normal lot setbacks for each district shall apply and may be reduced
13 pursuant to Section 61.7, where applicable.
- 14 91. **Communication Tower, Commercial.**
- 15 a. *General Standards:*
- 16 (1) Site plan approval shall be required.
- 17 (2) Commercial communication towers shall meet the general standards and
18 purpose for public safety communications towers.
- 19 b. *Conditional Standards:*
- 20 (1) The application submitted by the applicant to the Board of Appeals for a
21 commercial communication tower, shall satisfactorily address the requirements
22 for conditional use applications as defined by the zoning ordinance for any
23 conditional use whatsoever, as amended from time to time, and shall in addition
24 include the following:
- 25 (a) A system design plan that shall include, at a minimum, radio frequency
26 parameters, tower height; number and location of antennae on the
27 tower, all existing or proposed buildings within the "fall zone"; radio
28 frequency output; effective radiated power; and azimuth antenna type.
- 29 (b) A signal coverage/propagation map of the area to be served by the
30 proposed tower. The propagation map shall show signal intensity in
31 dBm (for at least three signal intensities). The propagation map shall
32 also show major roads and major developments, towns, villages, etc.
33 The County reserves the right to request propagation maps for other
34 sites or height alternatives.
- 35 (c) The signal coverage/propagation map shall show coverage area
36 available under existing towers with co-location opportunities,
37 approved towers and antennae/equipment installed on other structures
38 (water towers, buildings, etc.).
- 39 (d) Evaluation of the tower's relationship to other antenna sites, existing
40 off-site structures taller than 50 feet, communication towers, and water
41 tanks within a two mile radius of the proposed tower. Verifiable
42 evidence must be provided of the lack of space or unsuitability of any
43 existing tower or structure within that search radius.
- 44 (e) A detailed engineering analysis of the proposed new tower, including a
45 summary of the proposed tower's capacity to provide space for future
46 co-location by others.

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- 1 (f) Federal Communications Commission review, evaluation and approval
2 under the National Environmental Policy Act of 1969, and applicable
3 Federal Communication Commission regulations and standards through
4 the Office of Engineering and Technology as required by federal law.
- 5 (g) The specific type of tower to be constructed and the proposed materials
6 to be used in the construction of the tower.
- 7 (h) The design of the proposed tower shall be sealed by a licensed engineer
8 licensed to practice in the State of Maryland.
- 9 (i) Identification of all noise, odor and other potential nuisance producing
10 facilities, appurtenances and/or outbuildings, or the like, that are
11 associated with the proposed use.
- 12 (j) Identification of the maximum number of antennae and co-location
13 spaces that can safely be placed on the tower. An engineering
14 statement must be submitted certifying that the proposed tower can
15 accommodate a minimum of three users, however, a minimum of five
16 is preferred. If this is not possible, a justification statement must be
17 provided that is based on structural, height, radio frequency or
18 engineering limitations.
- 19 (k) An elevation drawing, depicting the tower at its proposed height, with
20 all planned antennae/equipment shown.
- 21 (l) A visual impact study, including photo-simulations, demonstrating that
22 a proposed tower shall not unreasonably interfere with the view of, or
23 from sites of significant public interest such as a public park, a state or
24 county designated scenic road or river, or a structure on the historic
25 sites survey or in a historic district, located within two miles of the
26 proposed tower site. The Department of Land Use and Growth
27 Management staff may request, and the Board of Appeals may require
28 the applicant to conduct a balloon or crane test and to submit additional
29 photo-simulations or a line-of-sight analysis documenting the visual
30 impact the proposed tower may have on surrounding sites. The
31 applicant shall provide the County and adjacent property owners with
32 at least a 48-hour notice of the test. If the applicant's visual impact
33 analysis relies upon an existing tree buffer on the subject property (but
34 outside the lease area), the applicant, as a condition of approval, shall
35 secure an easement to preserve/protect that buffer for the duration of
36 the conditional use.
- 37 (m) An engineering statement prepared by a licensed professional engineer
38 certifying that the proposed facility will meet or exceed all regulatory
39 emissions standards established by the FCC. This statement shall
40 identify the predicted exposures for the specific equipment proposed
41 along with the allowable federal limit of exposure. If future co-location
42 occurs on the tower, then emissions statements shall be provided for
43 each co-locator.
- 44 (n) An engineering statement prepared by a licensed professional engineer
45 describing the contained fall design for the tower in the event of a
46 structural failure.
- 47 (o) Evidence that at least one telecommunications carrier has agreed to
48 locate antennae on the tower.
- 49 (p) A plan that describes company plans for new towers or antenna
50 placements within the entire County during the next two years. The
51 plan shall include propagation maps (showing at least three different

1 signal intensities in dBm) that depict existing and proposed sites and
2 describe the anticipated timing for proposed sites. Thereafter, each
3 company that owns the tower, or places telecommunications equipment
4 on the tower, must submit an annual plan that describes the company's
5 plans for new towers or antenna placements within the County in the
6 next two years. For each tower owner, this document will also identify
7 what equipment is placed on each tower, the height at which the
8 equipment is placed, and the owner of the equipment. The plan
9 described in this section need only be prepared one time during the year
10 and does not need to be revised with each application submitted during
11 the period of coverage.

12 (q) All fees for the costs of any technical review of the application by an
13 independent consultant hired by the County.

14 (2) The applicant for a new commercial communications tower shall demonstrate to
15 the Board of Appeals that co-location on existing commercial towers, public
16 safety towers, or other appropriate structures is not feasible. Feasibility shall be
17 demonstrated by an analysis and explanation prepared by a licensed professional
18 engineer that identifies why other existing or proposed towers within a two-mile
19 radius cannot be used. The analysis must evaluate any reasonable, technically
20 feasible alternative locations and/or facilities that would provide the proposed
21 communication service and provide a structural analysis indicating that no
22 existing or proposed tower can be structurally modified to meet the applicant's
23 needs. Replacement of an existing approved tower with a new tower on the
24 same site shall be an alternative addressed in the analysis.

25 The intention of analyzing the alternatives analysis is to present alternative
26 strategies that would minimize the number, size, and adverse visual,
27 environmental, and public safety impacts of facilities necessary to provide the
28 needed services to the County. The analysis shall address the potential for co-
29 location at an existing or new site and the potential for locating facilities as close
30 as possible to the intended service area. It shall also explain the rationale for
31 selection of the proposed site in view of the relative merits of any of the feasible
32 alternatives. Physical constraints may be considered but will not be
33 determinative. Approval of the project is subject to the Board of Appeals
34 making a finding that the proposed site results in fewer or less severe impacts
35 than any feasible alternative site.

36 (3) Co-location is not deemed possible if the Board of Appeals finds that:

37 (a) Planned equipment would exceed the structural capacity of existing and
38 approved towers or towers proposed to be constructed, considering
39 existing and planned use of those towers, and such towers cannot be
40 feasibly structurally modified or reinforced to accommodate planned or
41 equivalent equipment. In the case of existing towers owned by the
42 applicant, the applicant shall have demonstrated to the Board of Zoning
43 Appeals that a new (replacement) tower cannot be constructed on the
44 existing approved site to satisfy its new requirements.

45 (b) Planned equipment will cause interference with other existing or
46 planned equipment for the tower, and the interference cannot be
47 prevented.

48 (c) Existing, approved towers, or towers proposed to be constructed do not
49 have space on which to place planned equipment so it can function
50 effectively; or

51 (d) Existing, approved towers, or towers proposed to be constructed, will
52 not provide reasonable signal coverage that is appropriate for St.

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- 1 Mary's County (-89 dbm) (demonstrated through propagation maps
2 showing signal coverage).
- 3 (4) The tower shall be constructed so as to provide adequate capacity for future co-
4 location of other commercial and/or government-operated antennae, unless the
5 applicant demonstrates why such design is not physically feasible. The system
6 design plan shall delineate areas near the base of the tower to be used for the
7 placement of additional equipment buildings for other users.
- 8 (5) No signals, lights or illumination shall be permitted on the tower unless required
9 by the Federal Communications Commission, the Federal Aviation
10 Administration, or the County.
- 11 (6) No commercial advertising or other signage shall be permitted on the tower.
- 12 (7) All obsolete or unused facilities, including buildings, towers, and all other
13 improvements associated with the tower, shall automatically be deemed
14 abandoned upon 24 months of continuous cessation of operations and shall be
15 removed at such time without cost to the County. The applicant shall provide a
16 bond, letter of credit, or other appropriate surety at time of approval as approved
17 by the County to cover the cost for demolition of the facility and site restoration.
- 18 (8) Towers shall be constructed at the minimum height required to obtain reasonable
19 signal coverage that is appropriate for St. Mary's County (-89 db). Towers
20 exceeding a height of 199 feet above existing grade shall require detailed
21 engineering justification, documenting the basis for determining that a taller
22 structure is required. Towers exceeding 199 feet above existing grade may also
23 be justified by demonstrating that the existence of previously approved tower(s)
24 in the vicinity of the proposed site serves to mitigate visual impacts, or that a
25 single (taller) tower will reduce adverse visual impact by replacing multiple
26 existing towers.
- 27 (9) The site shall be large enough to accommodate the tower and all related
28 structures, equipment and appurtenances (whether above or below ground), and
29 of a size sufficient to meet Health Department standards if water and sanitary
30 facilities are provided. The site plan shall depict the tower site, the location of
31 all structures, equipment and appurtenances to be installed with the tower
32 (whether located above or below ground), all existing tree buffers on the subject
33 property, all adjoining properties; means of ingress/egress; and all required
34 setback lines.
- 35 (10) In addition to any setbacks otherwise required by the Zoning Ordinance, towers
36 shall require a setback distance of 100 percent of the height of the tower from
37 any residence, historic site, building or other structure not associated with the
38 tower site. If the setback is to be on an adjoining property, a notarized statement
39 of agreement or an easement must be obtained from the adjoining property
40 owner. If the communications tower is proposed along a state or County scenic
41 roadway, then a setback from the road of 300 percent of the height of the tower
42 and additional landscaping, or additional screening may be required by the
43 Board of Appeals.
- 44 (11) The tower enclosure shall be buffered from adjoining properties with at least
45 two rows of fast growing evergreen species such as red cedar or Leyland
46 cypress. The County reserves the right to require a different vegetated buffer as
47 part of the conditional use approval.
- 48 (12) No commercial communication tower shall be constructed within the Critical
49 Areas as shown on the Official Zoning Maps.

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- 1 (13) The County shall have the right of first refusal to any available collocation space
2 on a tower at no cost to the County; provided, however, that the County shall be
3 responsible for maintaining its own equipment.
- 4 (14) Contact information shall be prominently displayed on the fence enclosing each
5 facility. This information shall be current and shall identify the company name,
6 responsible individual, and phone number for the contact person.
- 7 92. **Freight Terminal.**
- 8 a. *General Standards:*
- 9 (1) Site plan approval shall be required.
- 10 b. *Limited Standards:*
- 11 (1) Facility shall provide sufficient queuing space for anticipated volume over the
12 peak one hour period (based on an analysis of the anticipated traffic volume
13 submitted by the applicant).
- 14 93. **Passenger Terminal.**
- 15 a. *General Standards:*
- 16 (1) Site plan approval shall be required.
- 17 (2) Site parking and circulation layout shall provide sufficient queuing space for
18 anticipated volume over the peak one hour period (based on an analysis of the
19 anticipated traffic volume submitted by the applicant);
- 20 (3) Security lighting (lights, including lighting for signs shall not shine directly onto
21 an adjacent property or produce glare) shall be provided; and
- 22 (4) A covered drop-off/pick up/waiting area shall be provided at primary entrance.
- 23 b. *Limited Standards:*
- 24 (1) Accessory garages for routine vehicle maintenance shall be prohibited.
- 25 94. **Regional Flood and Storm Water Management Facility.**
- 26 a. *General Standards:*
- 27 (1) Site plan approval shall be required.
- 28 (2) In the Critical Areas, regional flood and storm water management facilities may
29 be permitted in the RCA if they serve only development in that zone.
- 30 (3) In the Critical Areas, facilities must demonstrate to all appropriate local and
31 state permitting agencies that there will be a net improvement in water quality
32 discharged to the adjacent body of water.
- 33 95. **Small Wind Energy System.**
- 34 a. *Accessory Standards:*
- 35 (1) The purpose of these regulations is to allow a Small Wind Energy System used
36 to generate electricity at a rated capacity (as defined by the manufacturer) of 100
37 kilowatts or less to be constructed and installed primarily for on-site
38 consumption. The application submitted by the property owner or his
39 designated representative to the Department of Land Use and Growth
40 Management for a building permit to construct a Small Wind Energy System
41 shall satisfactorily address the standards as set forth below:
- 42 (a) A building permit shall be obtained prior to installing a small wind
43 energy system. The building permit application shall be accompanied
44 by a site plan of the property, including all boundaries, drawn to scale,

1 showing the following information. Approval of the building permit
2 shall be subject to a determination by appropriate personnel affiliated
3 with Patuxent River Naval Air Station as to noninterference with
4 military activities.

- 5 1. The location of the proposed small wind energy system and
6 the locations of all existing buildings, structures, overhead
7 utility lines, and environmental features including woodland
8 and other vegetation shall be shown on the site plan; and
- 9 2. The distance between the small wind energy system tower and
10 structures on adjoining properties shall be shown on the site
11 plan; and the distance between the small wind energy system
12 tower and property lines shall be shown on the site plan.

13 (b) Compliance with the St. Mary's County Building Code: Building
14 permit applications for small wind energy systems shall be
15 accompanied by standard drawings of the wind turbine structure,
16 including the tower, base, and footings. An engineering analysis of the
17 tower showing compliance with the St. Mary's County Building Code
18 shall also be submitted. This analysis may be supplied in the form of
19 documentation from the manufacturer or supplier. Submit the footing
20 specifications developed by the tower supplier or manufacturer.

21 (c) A Small Wind Energy System must comply with regulations of the
22 Federal Aviation Administration (FAA), if applicable, including any
23 necessary approvals for installations close to airports.

24 (d) Compliance with National Electric Code: Building permit applications
25 for Small Wind Energy Systems shall be accompanied by a line
26 drawing of the electrical components in sufficient detail to allow for a
27 determination that the manner of installation conforms to the National
28 Electrical Code. This information may be supplied by the manufacturer.

29 (e) Wind turbines shall be the default color of the manufacturer or painted
30 a non-reflective, neutral color that conforms to the environment.

31 (f) A Small Wind Energy System shall not exceed the ambient noise levels
32 as established by this Ordinance, Maximum Noise Standards by Zoning
33 District.

34 (g) A Small Wind Energy System shall not be artificially lighted unless
35 required by the Federal Aviation Administration (FAA) or other
36 applicable authority.

37 (h) A Small Wind Energy System shall not be used for displaying any
38 advertising. Appropriate warning signs and signs identifying the
39 manufacturer, installer, or owner of the Small Wind Energy System
40 may be attached.

41 (i) Electrical controls and control wiring and power-lines shall be wireless
42 or underground.

43 (j) The tower of a Small Wind Energy System shall be designed so as to
44 prohibit step bolts or a ladder readily accessible to the public for a
45 minimum height of 10 feet above the ground.

46 (k) The height of a Small Wind Energy System shall not exceed a
47 maximum height of 85 feet, if located on a lot or parcel less than one
48 acre in size; or a maximum height of 150 feet, if located on a lot or
49 parcel one acre in size or greater.

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- 1 (l) The tower of a Small Wind Energy System shall be set back a distance
2 equal to its total height, which is a one to one (1:1) ratio between height
3 and setback, from all property lines and any overhead utility lines. A
4 variance or an agreement in recordable form signed by the adjoining
5 property owner(s) must be obtained in order to reduce this required
6 setback from property lines. Total height means the vertical distance
7 from ground level to the tip of a wind generator blade when the tip is at
8 its highest point.
- 9 (m) The blade tip of any wind turbine shall, at its lowest point, have ground
10 clearance of no less than fifteen (15) feet, as measured at the lowest
11 point of the arc of the blades.
- 12 (n) One Small Wind Energy System shall be permitted on a site.
- 13 (o) Any small wind energy system found to be abandoned or unsafe by the
14 Building Code Official shall be repaired or removed by the landowner.
15 A small wind energy system that fails to operate or is out of service for
16 a continuous 12-month period shall be deemed to be abandoned.
- 17 (2) In Critical Area overlay zones, the following additional criteria shall apply:
- 18 (a) Applications shall be reviewed per Section 71.2 of this Ordinance.
19 Facilities may not be located in areas designated as Forest Interior
20 Dwelling Species (FIDS) habitat; habitat protection areas for rare,
21 threatened and endangered species, species in need of conservation, or
22 colonial water birds; or Natural Heritage areas unless the applicant has
23 obtained from DNR Wildlife and Heritage Service a letter stating its
24 recommendations for protection and conservation of the above listed
25 habitats. Applicants shall comply with all DNR recommendations.
- 26 (b) If otherwise approved for location in the 100-foot Buffer and/or
27 expanded Buffer, the County shall require the following:
- 28 1. Clearing of forests, developed woodlands, and natural
29 vegetation shall be limited to only the amount necessary for
30 installation of the wind turbine; and
- 31 2. Mitigation shall be required at a ratio of 3:1 for the footprint
32 of any new lot coverage associated with the wind turbine; and
- 33 3. Mitigation shall be required at a ratio of 3:1 for the limit of
34 disturbance of any clearing of forests, developed woodlands,
35 and natural vegetation; and
- 36 4. Required mitigation shall be located on-site within the 100-
37 foot Buffer to the extent possible and shall be planted to
38 provide a diverse natural habitat in accordance with Section
39 72.3.2 of this Ordinance, except that any canopy trees required
40 per the site stocking criteria of Section 72.3.5.c.(1) need not be
41 located within a 300-foot radius from the base of the wind
42 turbine.
- 43 5. A Buffer Management Plan showing an offsite location for
44 canopy tree placement or a proposal for alternative site
45 stocking that substitutes understory trees for required canopy
46 trees may be approved by the County Environmental Planner
47 if the applicant demonstrates that all mitigation cannot be
48 located onsite.

6. A variance may not be granted to the mitigation requirements specified in subsection 2 and 3 above.

96. ***Solid Waste Acceptance, Processing, Transfer, and/or Resource Recovery Facility.***

a. *General Standards:*

- (1) Site plan approval shall be required.
- (2) These restrictions apply to both public and private solid waste and resource recovery facilities and require separate application and review in accordance with the Solid Waste Management and Recycling Plan.
- (3) The following location criteria shall apply:
 - (a) Pursuant to the adopted Solid Waste Management and Recycling Plan, portions of the County are excluded as areas available for location of solid waste acceptance and handling facilities including landfills, rubble fills, dumps and sanitary fills. Facilities shall not be placed in areas constrained by the presence of or close proximity to:
 1. Floodplains;
 2. Wetlands or wetland buffers;
 3. Surface water impoundments;
 4. Steep slopes or erodible soils;
 5. Historic preservation districts or sites;
 6. Areas of Critical state concern as designated by the Department of Natural Resources and the Maryland Department of Planning;
 7. Local and state parks and the State "Wildlands";
 8. Incompatible adjacent land uses, such as residential development;
 9. Habitats of rare, threatened or endangered species; or
 10. Power transmission rights-of-way.
 - (b) New facilities shall be horizontally located 1,500 feet from the nearest home or institutional building and 2,500 feet from a potable water supply or wellhead.
 - (4) In Critical Area IDA overlay zones, the following additional criteria shall apply:
 - (a) Solid or hazardous waste collection or disposal facilities and sanitary landfills are prohibited unless the applicant demonstrates that no environmentally acceptable alternative exists outside the Critical Area and that these development activities are needed to correct an existing water quality or wastewater management problem.
 - (b) Any facility or activity, must demonstrate to all appropriate local and state permitting agencies that there will be a net improvement in water quality discharged to the adjacent body of water.
 - (c) Permanent sludge-handling, storage or disposal facilities, other than those associated with wastewater treatment facilities, may be permitted only in the IDA. However, the agricultural or horticultural use of sludge may be permitted in any Critical Area overlay zone outside the Critical Area Buffer.

- 1 (5) Except when established by the approved Solid Waste Management and
 2 Recycling Plan, it shall be the applicant's burden to prove that a demonstrated
 3 need within St. Mary's County exists. The need for a facility shall be a
 4 prerequisite for considering the potential siting of any solid waste or resource
 5 recovery facility.
- 6 (6) The minimum road frontage for any solid waste or resource recovery facility
 7 shall be 80 feet.
- 8 (7) Solid waste or resource recovery facilities shall have a commercial entrance and
 9 be located on a road with a designated major collector or higher classification.
- 10 (8) No commercial motor vehicle used to transport municipal solid waste shall be
 11 parked anywhere within the county, city, or town, except at locations zoned or
 12 otherwise authorized for such use by applicable ordinance, special exception, or
 13 variance.
- 14 (9) The cargo compartment of every commercial motor vehicle that is used to
 15 transport municipal solid waste shall be so constructed so as to prevent the
 16 escape of municipal waste therefrom. Such ordinances shall exclude from their
 17 provisions vehicles owned, or operated, by persons transporting municipal solid
 18 waste from their residences to a permitted transfer or disposal facility.
- 19 (10) In addition, the following undisturbed buffer zone requirements are established:

Table 51.3.92: Solid Waste Facility Buffer Zones

SOLID WASTE FACILITY	BUFFER
Incinerator	650'
Municipal solid waste landfill	500'
Processing facility	500'
Construction & demolition rubble landfill	500'
Materials recovery facility	300'
Land clearing debris landfill	500'
Transfer Station	300'
Recycling center	300'
Recycling collection point *	None *

*No buffer required unless otherwise prescribed by federal, state and/or local regulations.

- 21
- 22
- 23 b. *Limited Standards.* When practicable, landfills shall be located on land degraded by
 24 previous industrial activities.
- 25 97. *Utility, Major.*
- 26 a. *General Standards:*
- 27 (1) Site plan approval shall be required.
- 28 (2) Utility transmission facilities, except those regional or interstate facilities that
 29 must cross tidal waters, may be permitted only in a Critical Area IDA-Zone if
 30 the facility or activity has demonstrated to all appropriate local and state
 31 permitting agencies that there will be a net improvement in water quality
 32 discharged to the adjacent body of water.
- 33 98. *Utility, Minor.*
- 34 a. *General Standards:*
- 35 (1) Site plan approval shall be required.

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- 1 (2) Electric Transmission Lines.
2 (a) Route Approval. Written evidence of route approval from the
3 Maryland Public Service Commission shall be furnished with the
4 application for site plan approval.
5 (b) Buffering. Switching yards shall be buffered with not less than an "A"
6 buffer. Understory trees may be substituted for canopy trees in the
7 buffer.

8 99. **Boatel (multi-level watercraft storage rack building).**

9 a. *General Standards:*

- 10 (1) Site plan approval shall be required.
11 (2) Non-water dependent structures and activities shall be located entirely outside
12 the Critical Area buffer and meet the following criteria:
13 (a) Access through the Buffer for launching and hauling boats shall be
14 minimized and shall not exceed one point for each 500 feet of
15 shoreline.
16 (b) Access to piers may include pervious or semi-pervious pedestrian
17 pathways to piers and areas for loading or unloading boats into the
18 water.
19 (3) Setback for the multilevel storage structure shall be the greater of the minimum
20 required in the district or the overall height of the structure. All other on-site
21 buildings shall meet or exceed the minimum required setback.
22 (4) The Critical Area Buffer shall be planted with a "C" buffer yard using native
23 vegetation.
24 (5) The area of each level of the storage rack shall be included in calculation of the
25 floor area ratio for structures on the site.
26 (6) All impervious surfaces should, in-so-far as possible, drain to an area that allows
27 infiltration of stormwater and pollutants. Use of bio-retention structures for
28 storm water management shall be the preferred method.
29 (7) Out-of-water work or storage areas shall be located a minimum of 200 feet from
30 any residential district boundary.
31 (8) A site having facilities for mooring, docking, or berthing of 10 or more vessels
32 on tidal navigable waters shall also be regulated as a Marina and shall provide
33 pump-out and restroom facilities.

34 100. **Boatyard.**

35 a. *General Standards:*

- 36 (1) Site plan approval shall be required.
37 (2) Non-water dependent structures and activities shall be located entirely outside
38 the Critical Area buffer and meet the following criteria:
39 (a) Access through the buffer for launching and hauling boats shall be
40 minimized and shall not exceed one point for each 500 feet of
41 shoreline.
42 (b) Access to piers may include pervious pedestrian pathways to piers and
43 to areas for loading or unloading boats into the water.
44 (3) Facilities that are not located adjacent to tidal waters or that are not accessory to
45 a Marina use shall be regulated as Production Industry, Custom.

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- 1 (4) Only retail sales of marine goods, boats or other watercraft constructed on the
2 premises shall be allowed.
- 3 (5) A boatyard may be an accessory use to a Marina use.
- 4 (6) Access through the buffer may include pervious pedestrian pathway to piers or
5 areas for loading or unloading boats into the water.
- 6 (7) A site may have a facility for mooring, docking, or berthing fewer than 10
7 vessels on tidal navigable waters provided the facility is used for mooring,
8 docking, or berthing of vessels constructed or repaired on site, or for vessels
9 awaiting repair on-site.
- 10 (8) A site having facilities for mooring, docking, or berthing of 10 or more vessels
11 on tidal navigable waters shall also be regulated as a Marina.
- 12 (9) The facility shall not provide recreational or entertainment facilities.
- 13 101. **Charter Fishing Facility.**
- 14 a. *General Standards:*
- 15 (1) Site plan approval shall be required.
- 16 (2) Non-water dependent structures and activities shall be located entirely outside
17 the Critical Area buffer and meet the following criteria:
- 18 (a) Access through the buffer for launching and hauling boats shall be
19 minimized and shall not exceed one point for each 500 feet of
20 shoreline.
- 21 (b) Access to piers may include pervious pedestrian pathways to piers and
22 to areas for loading or unloading boats into the water.
- 23 (3) A toilet facility sized to accommodate customer and employee needs shall be
24 provided.
- 25 (4) A parking lot sized to accommodate customer and employee needs shall be
26 provided with setback at least 100 feet from property lines and screened with a
27 "B" buffer yard.
- 28 102. **Commercial Dock.**
- 29 a. *General Standards:*
- 30 (1) Site plan approval shall be required.
- 31 (2) Non-water dependent structures and activities shall be located entirely outside
32 the Critical Area buffer and meet the following criteria:
- 33 (a) Access through the buffer for launching and hauling boats shall be
34 minimized and shall not exceed one point for each 500 feet of
35 shoreline.
- 36 (b) Access to piers may include pervious pedestrian pathways to piers and
37 to areas for loading or unloading boats into the water.
- 38 (3) A facility shall provide restroom facilities sized to accommodate customer and
39 employee needs.
- 40 (4) Parking lot sized to accommodate customer and employee needs shall be
41 provided with setback at least 100 feet from property lines and screened with a
42 "C" buffer yard.
- 43 (5) An accessory structure no larger than 1,000 square feet may be constructed for
44 the display and sale of locally produced fishery products. Site plan approval is

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- 1 required to determine adequate access, parking, and signage for this accessory
2 retail use.
- 3 (6) The Critical Area Buffer shall be planted with a "B" buffer yard using native
4 vegetation.
- 5 (7) Impervious surface, should, in so far as possible, drain to an area that allows
6 infiltration of stormwater and pollutants before entering waters of the state.
- 7 (8) Out-of-water work or storage areas shall be located a minimum of 200 feet from
8 any residential district boundary.
- 9 (9) If state grants are available, pump out facility shall be provided for any
10 overnight berths for recreational boats.

11 b. *Limited Standards:*

- 12 (1) In RNC zones, the use is prohibited unless it can be demonstrated that similar
13 legally created uses currently exist in the RNC neighborhood surrounding the
14 proposed use.
- 15 (2) A minimum "C" buffer yard shall be provided between the adjoining property
16 zoned for residential use and any structure built in relation to the commercial
17 activity.

18 103. ***Dock, Ramp and/or Railway, Public.***

19 a. *General Standards:*

- 20 (1) Site plan approval shall be required.
- 21 (2) Non-water dependent structures and activities shall be located entirely outside
22 the Critical Area Buffer and meet the following criteria:
- 23 (a) Access through the buffer for launching and hauling boats shall be
24 minimized and shall not exceed one point for each 500 feet of
25 shoreline.
- 26 (b) Access to piers may include pervious pedestrian pathway to piers and
27 to areas for loading or unloading boats into the water.
- 28 (3) Facility used for paid or free public access shall not provide overnight mooring,
29 docking or berthing.
- 30 (4) Site plan approval by the Planning Commission and water dependent facility
31 approvals must be obtained.
- 32 (5) Signage shall be posted stating that "No disposal of fish waste into waters of the
33 state is allowed from the pier, fish cleaning station or boats while using this
34 facility." If a fish cleaning station is provided, provisions for waste disposal
35 shall be required. Regular waste collection shall be provided.
- 36 (6) Parking lot sized to accommodate user needs shall be provided and screened
37 with an "A" buffer yard.

38 104. ***Marina.***

39 a. *General Standards:*

- 40 (1) Site plan approval shall be required.
- 41 (2) Non-water dependent structures and activities shall be located entirely outside
42 the Critical Area Buffer and meet the following criteria:

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- 1 (a) Access through the buffer for launching and hauling boats shall be
2 minimized and shall not exceed one point for each 500 feet of
3 shoreline.
- 4 (b) Access to piers may include pervious pedestrian pathway to piers and
5 to areas for loading or unloading boats into the water.
- 6 (c) New or expanded community marinas and other noncommercial boat
7 docking and storage may be permitted in the Buffer provided that:
- 8 1. These facilities may not offer food, fuel, or other goods and
9 services for sale and shall provide adequate and clean sanitary
10 facilities; and
- 11 2. The facilities are community-owned and established and
12 operated for the benefit of the residents of a platted and
13 recorded riparian subdivision; and
- 14 3. The facilities are associated with a residential development
15 approved by the County for the Critical Area and consistent
16 with all the Critical Area provisions of this Ordinance; and
- 17 4. Disturbance to the Buffer is the minimum necessary to provide
18 a single point of access to the facilities.
- 19 (3) Expanded facilities at any existing Marina use shall obtain approval in
20 accordance with this Ordinance for expansion of the water-dependent facility.
- 21 (4) Any non-conforming Marina use that exceeds 10 total berths for watercraft may
22 not be expanded unless it is brought into conformance with this Ordinance in so
23 far as possible.
- 24 (5) New or expanded facilities with 10 or more slips capable of berthing any vessel
25 over 22 feet shall provide either permanent pumpout facilities on a dedicated
26 dock or a mobile unit that can easily be moved from pier to pier. An approved
27 method of sewage disposal for the effluent is required.
- 28 (6) Except at community piers serving only residents of the community, each
29 marina shall provide separate toilet and shower facilities for males and females
30 conveniently located in one or more buildings. For every 40 slips or moorings,
31 or any fraction thereof, a facility shall provide a minimum of the following:
- 32 (a) Two flush-type toilets;
- 33 (b) Two lavatories; and
- 34 (c) Two showers with hot and cold running water.
- 35 (7) Each marina that allows customers to live aboard vessels while at dock shall
36 provide a laundry facility with a washer and dryer.
- 37 (8) The Critical Areas Buffer shall be planted with a "C" buffer yard using native
38 vegetation.
- 39 105. **Marine Services.**
- 40 a. *General Standards:*
- 41 (1) Site plan approval shall be required.
- 42 (2) Non-water dependent structures and activities shall be located entirely outside
43 the Critical Area Buffer and meet the following criteria:

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- 1 (a) Access through the buffer for launching and hauling boats shall be
2 minimized and shall not exceed one point for each 500 feet of
3 shoreline.
- 4 (b) Access to piers may include pervious pedestrian pathways to piers and
5 to areas for loading or unloading boats into the water.
- 6 (3) In RNC zones, the use is prohibited unless it can be demonstrated that similar
7 legally created uses currently exist in the RNC neighborhood of the proposed
8 use.
- 9 (4) Pumpout facilities shall be on a dedicated dock or provided via a mobile unit
10 that can easily be moved from pier to pier.

11 106. **Marine Terminal.**

12 a. *General Standards:*

- 13 (1) Site plan approval shall be required.
- 14 (2) Non-water dependent structures and activities shall be located entirely outside
15 the Critical Area Buffer.

16 b. *Conditional Standards:*

- 17 (1) Setback shall be the greater of the minimum required in the district or the overall
18 height of the structures used for loading and unloading at the facility.
- 19 (2) Parking, queuing, and storage areas and terminal and office buildings shall not
20 encroach into the Critical Area Buffer. Controlled access through the buffer
21 shall be established and all areas of the CA Buffer not used for access to vessels
22 for loading, unloading, and operations that are necessarily water dependent shall
23 be densely planted using native vegetation.
- 24 (3) Adverse impacts on water quality from structures or conveyances shall be
25 minimized. Semi-pervious paving in moderately trafficked areas, including,
26 cargo-handling and storage areas where practicable, shall be used to the extent
27 feasible to reduce imperviousness and control pollution.
- 28 (4) Use of bio-retention structures for stormwater management shall be preferred.
- 29 (5) Out-of-water work or storage areas shall be located a minimum of 200 feet from
30 any residential district boundary.
- 31 (6) Pump-out and waste disposal facilities, sized to accommodate the type of vessels
32 using the terminal, shall be provided.

33 107. **Seafood Industry.**

34 a. *General Standards:*

- 35 (1) Site plan approval shall be required.
- 36 (2) Non-water dependent structures and activities shall be located entirely outside
37 the Critical Area Buffer and comply with the following criteria:
- 38 (a) Access through the buffer for launching and hauling boats shall be
39 minimized and shall not exceed one point for each 500 feet of
40 shoreline.
- 41 (b) Access to piers may include pervious pedestrian pathways to piers and
42 to areas for loading or unloading boats into the water.
- 43 (3) Waste, by-products, or any decomposable residue that results from the
44 processing of fish must be refrigerated while on the premises. Waste or any
45 decomposable residue from the seafood operation may not be disposed of by

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- 1 spreading on and/or plowing under on a farm unless the farm contains at least
2 100 acres and Health Department approval is obtained.
- 3 (4) A toilet facility sized to accommodate customer and employee needs shall be
4 provided.
- 5 (5) A parking lot sized to accommodate customer and employee needs shall be
6 provided and setback at least 100 feet from property lines and screened with a
7 "B" buffer yard.
- 8 (6) Surface area of tanks shall be counted as impervious cover and toward the
9 allowable floor area ratio for the site.
- 10 (7) The industrial activities shall be incidental to a primary water-dependent fishery
11 activity.
- 12 b. *Limited Standards:*
- 13 (1) In an RPD zone, a permanent structure for the display and sale of locally
14 produced fishery products no larger than 750 square feet may be constructed.
15 Site plan approval is required.
- 16 (2) In an RNC zone, the use is prohibited unless it can be demonstrated that similar
17 legally created uses currently exist in the RNC neighborhood surrounding the
18 proposed use.
- 19 (3) A minimum "A" buffer yard shall be provided between the adjoining property
20 zoned for residential use and any structure built for use in the seafood
21 production activity.
- 22 108. ***Accessory Apartment.***
- 23 a. *General Standards:*
- 24 (1) Permit approval shall be required.
- 25 b. *Accessory Standards:*
- 26 (1) **Principal Dwelling Unit:**
- 27 (a) The accessory apartment must share at least one wall in common with
28 the living space of the principal dwelling unit.
- 29 (b) The minimum gross floor area of an accessory apartment within a
30 principal dwelling unit shall be 300 square feet.
- 31 (c) The maximum gross floor area of an accessory apartment within a
32 principal dwelling unit shall not exceed 40 percent of the gross floor
33 area of the principal dwelling unit, or a maximum of 900 square feet of
34 gross floor area, whichever is less. For purposes of calculating the size
35 of the accessory apartment, the gross floor area shall not include an
36 attached garage.
- 37 (d) An accessory apartment may share a common entrance with the
38 existing principal dwelling. If a separate entrance is provided to the
39 accessory apartment, it shall be located on the side or rear of the
40 principal dwelling.
- 41 1. A separate entrance shall be secondary to that of the primary
42 entrance to the principal dwelling unit and shall be less visible
43 from the street than that of the principal dwelling unit. In no
44 case shall the entrance face the street, except on a corner lot
45 where the entrance may face a street as long as all other
46 provisions of this section are satisfied.

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- 1 a. On a corner lot, the entrance to the accessory
2 apartment shall not be accessed by way of an exterior
3 stairway constructed on the street-facing sides of the
4 principal dwelling unit.
- 5 (e) If the accessory apartment is located in the basement, then it can consist
6 of the entire basement. The apartment shall comply with all applicable
7 codes.
- 8 (f) The appearance of the principal dwelling with an accessory apartment
9 shall be that of a single-family dwelling.
- 10 (2) Accessory Structures:
- 11 (a) The minimum gross floor area of an accessory apartment within an
12 accessory structure shall be 300 square feet.
- 13 (b) The maximum gross floor area of an accessory apartment within an
14 accessory structure shall not exceed 40 percent of the gross floor area
15 of the gross floor area of the accessory structure, or a maximum of 900
16 square feet of gross floor area, whichever is less.
- 17 (c) The entrance to the accessory apartment shall not face the street, if said
18 entrance is separate from the entrance to the accessory structure.
- 19 (d) Building materials and architectural features used in constructing the
20 accessory apartment shall be compatible with the principal dwelling or
21 with the accessory structure within which the accessory apartment is
22 located.
- 23 (3) An owner of the lot shall occupy at least one of the dwelling units on the
24 premises, except for bona fide temporary absences as determined by the
25 Planning Director. The owner shall sign an affidavit, prior to receiving the
26 Certificate of Use and Occupancy, acknowledging the conditions stipulated in
27 this section and agreeing to comply with all conditions.
- 28 (4) There shall be no more than one accessory apartment on a lot or parcel.
- 29 (5) All accessory apartments shall be approved by the Department of Land Use and
30 Growth Management through the building permit process.
- 31 (6) An additional, independently accessible parking space shall be provided for the
32 accessory apartment.
- 33 (7) In addition, within the RCA, an accessory apartment
- 34 (a) Shall be either
- 35 1. within the primary dwelling unit or
- 36 2. its entire perimeter shall be within 100 feet of the primary
37 dwelling unit; and
- 38 (b) shall be served by the same sewage disposal system as the primary
39 dwelling unit; and
- 40 (c) shall be 900 square feet or less in total enclosed area; and
- 41 (d) shall not require a Critical Area variance to accommodate the footprint
42 of the accessory dwelling or its appurtenances (deck, patio, parking,
43 etc.) nor shall a variance be required for clearing of developed wood-
44 land or forest cover to accommodate the accessory dwelling or its
45 appurtenances on the site.

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- 1 109. **Automated Teller Machine (ATM).**
- 2 a. *Accessory Standards:*
- 3 (1) Site plan approval shall be required.
- 4 (2) A minimum setback of two feet from the sidewalk shall be provided where
5 unenclosed ATMs are located on the exterior of a building fronting a public
6 street.
- 7 (3) Unenclosed ATMs shall provide weather protection for facility users in the form
8 of an awning or shallow portico.
- 9 (4) ATM facilities shall be adequately marked and lighted for security purposes.
10 Security lighting shall not result in excessive glare for nearby residential uses or
11 passing motorists.
- 12 (5) ATM facilities shall include a minimum of one waste receptacle per ATM.
- 13 110. **Bus Shelter.**
- 14 a. *Accessory Standards:*
- 15 (1) Sides and internal dividers shall be built of structurally sound materials and
16 provide a view of waiting passengers to passing traffic and pedestrians. All
17 transparent materials shall be shatterproof. No shelter shall be constructed in
18 such a manner, or be constructed of such materials, as to adversely affect sight
19 distance at any intersection or obstruct the view of traffic signs, or other traffic
20 control devices.
- 21 (2) Siting. Where curb and gutter are present, there shall be a minimum four feet
22 clearance from the face of the curb to any portion of the bus shelter. Where no
23 curb is present the front of the bus shelter shall be at least 10 feet from the edge
24 of the main traveled roadway. Bus shelters may not be located within five feet
25 of any fire hydrant or handicapped parking space.
- 26
- 27 111. **Collection Receptacles for Recyclable Materials.**
- 28 a. *Accessory Standards:*
- 29 (1) Dumpsters used for collection of recyclables shall be screened from the view of
30 residences with a fence or screening planting.
- 31 (2) The owner or lessee of the land where the receptacles are placed shall be
32 responsible for ensuring that the area around the receptacles is maintained in a
33 neat and orderly fashion.
- 34 (3) Receptacles for collecting recyclable materials shall be located consistent with
35 the following criteria:
- 36 (a) Siting shall accommodate convenient emptying of the receptacles.
- 37 (b) The receptacles and the vehicular or pedestrian traffic of people using
38 the receptacles shall not interfere with normal traffic patterns or block
39 ingress or egress to the site.
- 40 (c) Facilities designed for drive-up access shall have drop-off spaces or
41 access to reserved short-term parking for at least two vehicles.
- 42 (4) Recycling Collection Receptacles. Businesses or multi-tenant buildings with
43 100 or more employees shall provide recycling.

112. **Day Care, Family Home.**

a. *General Standards:*

- (1) Permit approval shall be required.
- (2) The facility shall be licensed by the State of Maryland following zoning authorization from the Department of Land Use and Growth Management.
- (3) The facility shall be in a single-family residence with access to open space sufficient to meet the state criteria for fenced outdoor play areas for children.

113. **Dock, Ramp and/or Railway, Private.**

a. *Accessory Standards:*

- (1) Site plan approval shall be required.
- (2) Private individual docks, ramps railways located on residentially zoned or used sites are not required to obtain approval as a water-dependent facility when the site has one of the following:
 - (a) Fixed or floating with no more than six mooring piles and no more than four slips or boatlifts per property and with a maximum of two three foot-wide finger piers not exceeding 50 percent of the proposed length of the slip and constructed on the landward side of the end of the pier; or
 - (b) A single 15-foot wide boat ramp provided that if a pier is constructed on the site it shall meet the criteria of paragraph (a) above except that a maximum number of four slips are allowed on the pier; or
 - (c) A single marine railway provided that if a pier is constructed on the site it shall meet the criteria of paragraph (a) above except that a maximum number of 3 slips are allowed on the pier.
- (3) Private community docks, ramps, and railways located on residentially zoned or used sites are required to obtain approval as a water-dependent facility site when the site exceeds the criteria of paragraph (1) above.

114. **Dock, Ramp and/or Railway.**

a. *Accessory Standards:*

- (1) Site plan approval shall be required.
- (2) Private water-dependent facilities may provide mooring, docking, or berthing of more than four but less than 10 vessels on tidal navigable waters subject to Section 41.8.4, Water Dependent Facilities, and must meet the following:
 - (a) Private facilities shall not be used for commercial purposes (rental of slips to persons not living on the property is expressly prohibited).
 - (b) Non-water dependent activities parking, storage, etc. shall be located entirely outside the Critical Area Buffer.
 - (c) New or expanded community marinas and other noncommercial boat docking and storage may be permitted in the Buffer provided that:
 1. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities; and
 2. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision; and

provisions 30 days written after written notice has been served on the owner or occupant of the property unless the home occupation is brought into compliance.

- (9) Funeral homes, motor vehicle repair, auto body work and food and beverage sales shall not be permitted as home occupations.
- (10) One off-site advertising sign may be posted on private property only with the permission of the property owner.
 - (a) Signs shall indicate direction only and shall not be located more than 10 miles from the subject business location.
 - (b) Signs shall be limited to six square feet in size and shall be no more than 18 feet high.
 - (c) Signs shall be subject to a minimum setback of five feet from the road right of way.
 - (d) Signs shall not be lighted.

117. **Live Entertainment.**

a. *Accessory Standards:*

- (1) Site plan approval shall be required.
- (2) Applicant must provide evidence to demonstrate that the use will not negatively affect the adjacent neighborhood because of traffic, noise, and number of people attending the facility.
- (3) Adequate parking as required by this Ordinance shall be provided, and overflow on-street parking shall not cause a hazard or nuisance for residents of the neighborhood.

118. **On-site Workers' Housing.**

a. *General Standards:*

- (1) Permit approval shall be required.
- (2) In the RCA, this use must be associated with a use permitted in the RCA. Occupation of the worker housing shall cease within 30-days if the agricultural, commercial, or industrial operation utilizing the workers ceases for more than 30 days, regardless of any intention to abandon or resume such activities. Housing may be reoccupied by workers utilized for the activity upon resumption of the permitted RCA use.

b. *Accessory Standards:*

- (1) Workers housing shall meet the appropriate standards for modular homes, mobile homes, multi-family residences, or institutional residences based on type of units proposed.
- (2) Housing that exceeds base zone density shall be vacated and removed if the agricultural, commercial or industrial operation employing the workers ceases for one year, regardless of any intention to abandon or resume such activities.

119. **Accessory, General.**

a. *Accessory Standards. (reserved).*

120. **Outdoor Storage.**

a. *Accessory Standards:*

- (1) Site plan approval shall be required.

1 (2) Provisions for screening of outdoor storage from view from public roadways
2 and dissimilar uses shall be required. An "A" buffer yard shall be the minimum
3 screening required but additional screening, fences, or berms may be imposed in
4 the site plan review.

5 121. **Recreational Vehicles.**

6 a. *Accessory Standards:*

7 (1) Recreational vehicles may not be occupied as permanent residences.

8 (2) In allowable zones, the property owner, his tenants or guests may make use of
9 one camping or recreational trailer on the owner's lot subject to the following
10 conditions:

11 (a) Use shall be on a parcel of 1 acre or more.

12 (b) The camping or recreational trailer may only be used on an intermittent
13 basis by the aforesaid individuals for private recreational use and
14 enjoyment of the owner's property, such as for camping or hunting.

15 (c) No person shall be entitled to reside in the recreational vehicle for more
16 than seven consecutive nights.

17 (d) The camping or recreational trailer must be completely screened from
18 the view of dwellings on adjacent lots by a fence or evergreen buffer.

19 (e) Each camping or recreational trailer shall be equipped with an
20 authorized self-contained sewerage holding tank.

21 (3) Recreational vehicles shall comply with the floodplain provisions of this
22 Ordinance.

23 122. **Swimming Pool, Private, Non-Commercial.**

7/07/2014

24 a. *Accessory Standards:*

25 (1) A building permit shall be required for in-ground, private, non-commercial
26 swimming pools.

27 (2) In-ground pools shall be set back at least 10 feet from any property line.

28 (3) Swimming pools and associated decks and enclosures shall be prohibited in the
29 Critical Area Buffer. Variances for these structures cannot be granted.

30 (4) Swimming pools shall not be permitted in the front or street side setback area.

31 123. **Stables.**

32 a. *Accessory Standards: (reserved)*

33 124. **Charter Fishing.**

34 a. *Accessory Standards:*

35 (1) Site plan approval shall be required.

36 (2) Non-water dependent structures and activities shall be located entirely outside
37 the Critical Area Buffer and meet the following criteria:

38 (a) Access through the buffer for launching and hauling boats shall
39 minimized and shall not exceed one point for each 500 feet of
40 shoreline.

41 (b) Access to piers may include pervious pedestrian pathway to piers and
42 to areas for loading or unloading boats into the water.

-
- 1 (3) Parking lot sized to accommodate customer and employee needs shall be
2 provided setback at least 50 feet from property lines and screened with a "A"
3 buffer yard.

4 125. **Construction Trailer/Office.**

5 a. *Limited Standards:*

- 6 (1) Permit approval shall be required.
7 (2) May be used as a temporary office and/or storage during the time construction or
8 development is actively underway, or for two years, whichever is shorter.

9 126. **Sales Office/ Model Home.**

10 a. *General Standards:*

- 11 (1) Site plan approval shall be required.
12 (2) Real property sales activities shall be removed from the property no later than
13 60 days following buildout of the lots.

14 127. **Show and Events, Indoor.**

15 a. *General Standards:*

- 16 (1) Events and shows shall be required to obtain a zoning permit unless they are
17 held at a government facility, fairground or flea market site, recreation and
18 entertainment facility, place of public assembly or public safety facility or on a
19 site larger than 50 acres.
20 (2) Events that include installation of stadium seating shall submit a site and seating
21 plan for review to determine compliance with State Fire Marshall requirements.
22 (3) Sites utilized for indoor shows or events shall have access to adequate off-street
23 parking for the duration of the event.

- 24 b. *Limited Standards.* In a CM zone, events shall be primarily related to boats and
25 watercraft, or be primarily for the slip holders and members of the principal activity on
26 site.

27 128. **Shows and Events, Outdoor.**

28 a. *General Standards. (reserved).*

29 b. *Limited Standards:*

- 30 (1) Events and shows shall be required to obtain a zoning permit unless they are
31 held at a government facility, fairground or flea market site, recreation and
32 entertainment facility, public safety facility; conducted by a public safety entity;
33 or on a site larger than 50 acres.
34 (2) Events that include installation of stadium seating shall submit a site and seating
35 plan for review to determine compliance with State Fire Marshall requirements.
36 (3) Sites utilized for outdoor shows or events shall have access to adequate off-
37 street parking for the duration of the event.
38 (4) In a CM zone, events shall be primarily related to boats and watercraft, or be
39 primarily for the slip holders and members of the principal activity on the site.
40 (5) Street fairs may operate for a maximum of four consecutive days.
41 (6) Live entertainment events may operate for a maximum of six (6) consecutive
42 days.
43 (7) Other events may operate for a maximum of 14 consecutive days.

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- 1 (8) Rodeos, circuses, livestock auctions or sales shall be subject to the following,
2 additional requirements:
- 3 (a) Minimum parcel or lot size for a site shall be 10 acres; and
4 (b) Stock pens and main buildings shall be located at least 300 feet from
5 any street or highway and at least 800 feet from any residence or
6 residential district boundary; and
7 (c) Provisions for managing animal wastes shall be provided.
- 8 129. ***Temporary Residence During Construction.***
- 9 a. *General Standards:*
- 10 (1) Permit approval shall be required.
11 (2) One mobile home may be used as a temporary residence in conjunction with the
12 development of a site for a period of one year. A temporary certificate of
13 occupancy shall be required for the temporary residential use. A permanent
14 electrical connection to the site shall not occur prior to the disconnection of the
15 temporary residence.
16 (3) Homes shall only be placed in the County in accordance with the manufacturer's
17 installation instruction for hurricane-sensitive areas. If the manufacturer's
18 instructions are not available, the National Conference of States on Building
19 Codes and Standards NCS BCS A 225.1 Manufactured Home Installations 1987
20 shall apply.
21 (4) No certificate of occupancy for a permanent residence on a site shall be issued
22 until the temporary residence is removed from the site.
23 (5) Mobile homes may be allowed for temporary residence during construction but
24 shall be removed from the site upon completion of the permanent residence.
25 Removal of the temporary residence to obtain a certificate of occupancy by
26 conversion of a mobile home to a storage use after completion of the permanent
27 residence is prohibited outside the RPD.

1 **CHAPTER 52 NONCONFORMING USES, STRUCTURES, AND SIGNS**

2 Sections:

- 3 52.1 Specific Purpose.
4 52.2 Continuation and Maintenance.
5 52.3 Alterations and Enlargements.
6 52.4 Abandonment of the Nonconforming Use.
7 52.5 Restoration of a Damaged Structure.
8 52.6 Identification and Registration of Nonconforming Uses.
9 52.7 Nonconforming Residential Subdivision Lots of Records.
10 52.8 Nonconforming Signs.

11 **52.1. Specific Purpose.**

12 This chapter is intended to limit the extent of nonconforming uses by prohibiting re-establishment after
13 abandonment, regulating alteration, and regulating restoration after damage or destruction. While
14 permitting use and maintenance of nonconforming buildings and structures, this chapter is intended to limit
15 the extent of nonconforming structures and nonconforming signs by prohibiting their movement or
16 alteration in a manner that would increase the discrepancy between existing conditions and the standards of
17 this Ordinance.

18 **52.2. Continuation and Maintenance.**

- 19 1. A use lawfully occupying a structure or a site on the effective date of this Ordinance, or of
20 amendments thereto, or, in the Critical Area on or before March 27, 1990, that does not conform
21 with the use regulations for the district in which the use is located shall be deemed to be a
22 nonconforming use and may be continued, except as otherwise provided in this chapter.
- 23 2. A use lawfully in existence on the effective date of this Ordinance that does not conform with the
24 parking, loading, buffer yard, planting area, or screening regulations of the district in which it is
25 located shall not be deemed a nonconforming use solely because of these non-conformities.
- 26 3. A structure lawfully occupying a site on the effective date of this Ordinance, or of amendments
27 thereto, that does not conform with the standards for front yards, side yards, rear yards, height,
28 floor area, driveways, screening, buffer yards, landscaping, or open space for the district in which
29 the structure is located shall be deemed a nonconforming structure and may be used and
30 maintained, except as otherwise provided in this chapter.
- 31 4. A sign, or display of any character, lawfully occupying a site on the effective date of this
32 Ordinance, or of amendments thereto, that does not conform with the standards for location, size,
33 lighting, or movement prescribed for signs and displays for the district in which it is located shall
34 be deemed to be a nonconforming sign and may be displayed, except as otherwise provided in this
35 chapter.
- 36 5. Exception: A nonconforming mobile home, lawfully occupying a site on the effective date of this
37 Ordinance, or of amendments thereto, may be replaced or expanded. The replacement or
38 expanded mobile home is exempt from the requirements of Section 52.3.3 pertaining to the
39 expansion and enlargement of nonconforming uses and structures.

40 **52.3. Alterations and Enlargements.**

- 41 1. A nonconforming use may not be changed to any other use except those permitted in the zoning
42 district in which it is located. It may be changed to a conditional use permitted in the zoning
43 district in which it is located after review and approval by the Board of Appeals.
- 44 2. No nonconforming structure shall be moved unless required by law, or unless the movement
45 (relocation) will result in the elimination of the nonconformity.
- 46 3. A nonconforming use or structure may be expanded or enlarged subject to the following
47 conditions:

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- 1 a. The expansion or enlargement shall occur upon the lot occupied by such use on the
2 effective date of this Ordinance.
- 3 b. The expansion or enlargement may not occupy area required to meet any off-street
4 parking requirements of this Ordinance.
- 5 c. The expansion or enlargement shall be implemented within one year by obtaining a
6 building permit. If the expansion or enlargement is not implemented within one year, all
7 new uses shall conform to the standards of this Ordinance.
- 8 d. An expansion or enlargement constituting 25 percent or less of the existing use or
9 structure may be approved by the Planning Director as a minor site plan application
10 utilizing the standards for conditional use in Chapter 25.
- 11 e. In the event the area of the proposed expansion or enlargement exceeds 25 percent of the
12 existing structure or use the enlargement or expansion must be approved by the Board of
13 Appeals. However, the total amount of expansion or enlargement allowed for any
14 nonconforming use shall not exceed 50 percent. The standards to be employed in
15 deciding on the application shall be the same as those contained in Chapter 25 for
16 conditional uses.
- 17 f. All expansions and enlargements shall meet current standards of this Ordinance insofar
18 possible.
- 19 4. No use fails to meet the standards of Chapter 25 shall be enlarged or expanded unless the
20 enlargement or expansion will result in elimination of the nonconformity.
- 21 5. Any non-conforming Marina use that exceeds 10 total berths for watercraft may not be expanded
22 unless it is brought into conformance with this Ordinance in so far as possible.

23 **52.4. Abandonment of the Nonconforming Use.**

- 24 1. A nonconforming use, structure or any part thereof, that is discontinued or changed to a
25 conforming use for a continuous period of one year or more shall not be reestablished, and the use
26 of the structure or site thereafter shall be in conformity with the regulations of the district in which
27 it is located. Abandonment or discontinuance shall include cessation of a use regardless of intent
28 to abandon or resume the use of the nonconforming use, structure or any part thereof. A
29 nonconforming structure or a structure containing a nonconforming use, which is destroyed by fire
30 or other calamity, may be restored in accordance with Section 52.5 of this Ordinance.
- 31 2. Abandoned nonconforming structures may be summarily removed by the County in accordance
32 with the following procedures:
- 33 a. *Abatement Procedure and Cost.* The Permits and Inspections Director is authorized, after
34 sending record owners of the lot or parcel where the structure is located notice of his
35 determination that a nonconforming structure has been abandoned for a continuing period
36 of at least one 1 year, to enter private property to remove an abandoned structure, which
37 will be removed at the expense of the owner of the property upon which the sign is
38 located.
- 39 (1) Lien for Sign Removal by County. Upon removal of the structure by the County,
40 the County has a lien upon the sign for the cost of removal and may keep
41 possession of the structure until the owner redeems it by paying the County for
42 the cost of removal. The County must notify the owner about how to redeem the
43 structure. The County may dispose of the structure 30 days after removal
44 without further liability to the owner. Any property owner may remove the
45 abandoned structure at the owner's own expense, in which case a lien will not be
46 imposed.
- 47 (2) Assessment or Lien for Administrative Costs. In any case in which an order to
48 abate has been issued, the Board of County Commissioners, by motion or
49 resolution, may further order that a special assessment and lien shall be imposed

1 upon the property on which the abandoned structure is located, in order to pay
2 for administrative costs associated with the abatement procedure. These costs
3 include expenses for investigation, boundary determination, measurement,
4 clerical, and other related costs. These costs may be imposed on a property even
5 if the property owner removed the abandoned structure at the owner's own
6 expense.

7 **3. Cost Accounting and Reimbursement.**

- 8 a. Cost Accounting. The Planning Director and Permits and Inspections Director shall keep
9 an account of the cost of abatement of an abandoned structure on each separate parcel of
10 property where the work is done. The director shall submit to the Board of County
11 Commissioners for confirmation an itemized written report showing that cost.
- 12 b. Reimbursement. The Planning Director or Permits and Inspections Director may receive
13 the amount due as reimbursement for abatement costs incurred and issue receipts for such
14 payment at any time after the Board of County Commissioners has confirmed the
15 abatement costs above.

16 **52.5. Restoration of a Damaged Structure.**

17 If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire or other
18 calamity, the structure may be restored and the nonconforming use may be resumed, provided that
19 appropriate approvals and permits are secured and the standards of this Ordinance are met insofar as
20 possible. If the restoration is not started within two years and diligently brought to completion, the building
21 or structure shall be removed and the area cleared.

22 **52.6. Identification and Registration of Nonconforming Uses.**

- 23 1. The Planning Director shall be responsible for identifying and recording nonconforming uses and
24 structures. The Planning Director shall make status determinations when requested by the affected
25 landowner or as the result of routine inspection. The Planning Director shall notify the owner of
26 record of such properties that the status of the existing uses or structures is under investigation.
27 The written notification shall request information regarding the history of uses and structures on
28 the property and copies of any approvals or permits in the possession of the owner. No later than
29 60 days after notification by the Planning Director the owner or his agent shall supply the
30 information requested by the Planning Director and provide documentation to support any claim
31 that the use or structure are nonconforming. In order that the exact nature and extent of such
32 nonconforming use may be determined, a survey plat prepared by a professional engineer or
33 registered surveyor may accompany the prescribed form. The survey shall include the following:
- 34 a. North arrow.
- 35 b. Scale (minimum one inch to 100 feet).
- 36 c. Election District.
- 37 d. Boundaries of the parcel or parcels on which the nonconforming use are located.
- 38 e. Acreage, bearings and distances of that portion of the property expressly used for the
39 nonconforming use on the effective date of this Ordinance.
- 40 f. Use, dimensions, and location of all existing structures, buildings and site improvements.
- 41 g. Certification and seal if professional engineer or registered surveyor.
- 42 2. Within 30 days of receipt of the requested information, the Planning Director shall make a written
43 determination as to the non-conforming status of the use or structure.
- 44 3. Any use or structure that was illegally established or cannot be determined to be legally
45 nonconforming shall be brought fully into compliance with this Ordinance or shall be eliminated
46 within three years of the Planning Directors' status determination.

1 **52.7. Nonconforming Residential Subdivision Lots of Records. Updated 12/31/2013 # 41**

- 2 1. Lots that do not meet minimum area, width or depth standards of Schedule 32.1 may be developed
3 if minimum yard requirements are met or variance is obtained.
- 4 2. Lots that are unbuildable without a variance due to the environmental constraints of Chapter 71
5 may sell a development right according to Chapter 26 (TDRs).
- 6 3. Projects receiving approvals prior to the effective date of this Ordinance may proceed in
7 accordance with Chapter 27.
- 8 4. Development standards and adequate public facility requirements provisions of Chapter 70 are not
9 applicable to lots in a minor subdivision around lawfully existing dwellings approved pursuant to
10 Section 30.3.7 of the St. Mary's County Subdivision Ordinance; provided however, that any
11 existing nonconformity of such lots shall not be increased.

12 **52.8. Nonconforming Signs.**

- 13 1. **Continuation and Maintenance of Nonconforming Signs.** Routine maintenance and repairs may
14 be performed on nonconforming signs.
- 15 2. No nonconforming sign shall be altered or reconstructed so as to increase the discrepancy between
16 existing conditions and the standards for front yards, buffer yards, side yards, rear yards, height of
17 structures, distances between structures, driveways, or open space prescribed in the regulations for
18 the district in which the sign is located. No nonconforming sign or its structural components, shall
19 be moved or enlarged unless the new location or enlargement shall conform to the standards for
20 front yards, side yards, rear yards, height of structures, distances between structures, driveways,
21 open space or signs prescribed in the regulations for the district in which the sign is located.
22 Changes in text and graphics on a nonconforming sign are permitted provided the sign is not
23 structurally altered, enlarged, or moved.
- 24 3. **Reconstruction of a Damaged Nonconforming Sign.** A nonconforming sign may be reconstructed
25 as authorized by Section 52.5.

12/31/13

1 **CHAPTER 53 RIGHT TO FARM**

2 Sections:

3 53.1 Purpose.

4 53.2 Implementation.

5 **53.1. Purpose.**

6 1. It is the policy of the Board of County Commissioners to preserve, protect and encourage the
7 development and improvement of its agricultural land for the production of food and other
8 agricultural products. The Right to Farm policy is intended to reduce the loss of agricultural
9 resources by limiting the circumstances under which agricultural and forestry operations may be
10 deemed to interfere with the reasonable use and enjoyment of adjacent land.

11 2. Agricultural lands and operations are worthy of recognition and protection because farming, and
12 all manner of agricultural activities and operations within and throughout the County, are integral
13 elements of and necessary for the continued vitality of the history, economy, landscape, open
14 space, lifestyle, and culture of the County and the state.

15 **53.2. Implementation.**

16 1. The St. Mary's County Right to Farm policy is implemented in Chapter 254 of the Code of Public
17 Laws and Ordinances of St. Mary's County.

18 2. Agriculture, aquaculture and silviculture are the preferred land uses in the rural preservation
19 district. Agriculture, aquaculture and silviculture are also allowed in other zoning districts. The
20 farmer has the right to farm without being restricted by neighboring residential areas. Restrictions
21 on hours of operation of farm equipment and use of odor-producing fertilizers and mandatory
22 noise reductions may not be imposed on the farmer in agricultural and rural preservation districts
23 and in those districts where farming is allowed. Normal agricultural activities and operations in
24 accordance with good husbandry practices, which do not cause bodily injury or directly endanger
25 human health, are permitted and preferred activities, including activities that may produce normal
26 agriculturally related noise and odors.

1 **ARTICLE 6. DEVELOPMENT STANDARDS AND APPROVALS**

2 **CHAPTER 60 SITE PLAN REVIEW**

3 Sections:

- 4 60.1 Purpose.
- 5 60.2 Approving Authority.
- 6 60.3 Development or Land Use Requiring a Site Plan.
- 7 60.4 Minor Site Plan Requirements
- 8 60.6 Concept Site Plan
- 9 60.5 Concept Site Plan Application Submission Requirements and Initial Review Procedures.
- 10 60.7 Major Site Plan Requirements
- 11 60.8 Site Development Standards.
- 12 60.9 Expiration, Extension and Appeal.
- 13 60.10 Amendments.
- 14 60.11 Public Works Agreements and Performance Bonds, Letters of Credit or Other Surety.
- 15 60.12 Inspection and Supervision During Installation.
- 16 60.13 Compliance with Site Plan.
- 17 60.14 Construction of Required Public Improvements.

18 **60.1. Purpose.**

19 The site plan review provisions of this chapter are intended to promote the safe, functional and aesthetic
20 development of property and to ensure that new structures, utilities, streets, parking, circulation systems,
21 yards and open spaces are developed in conformance with the standards of this Ordinance, the
22 Comprehensive Plan, and any adopted area plans or community plans. The site plan review procedure is
23 designed to provide information relating to the siting of structures, related site improvements, and
24 relationships with surrounding development.

25 **60.2. Approving Authority.**

26 The Planning Director shall be the approving authority for all site plans. Such approval shall be based on
27 recommendations from other appropriate agencies, and the standards of this Ordinance. The Planning
28 Director may not approve a major site plan until the Planning Commission has granted concept site plan
29 approval pursuant to Section 60.6.4 of this Ordinance.

30 **60.3. Development or Land Use Requiring a Site Plan. (See Flow Chart on Page 21-5)**

- 31 1. Site plan approval is required for any development or land use involving:
 - 32 a. A planned development.
 - 33 b. Any multi-family residential development.
 - 34 c. Any cluster development not subject to subdivision approval.
 - 35 d. Commercial and industrial uses or structures or changes of uses therein.
 - 36 e. Public and semi-public uses.
 - 37 f. Conditional uses.
 - 38 g. Agricultural uses as required by Section 51.2 of this Ordinance.
 - 39 h. Any development in the Critical Area Overlay Zone, except development on an existing
40 single family lot.
- 41 2. Site Plan approval is not required for the following:
 - 42 a. Antennas
 - 43 b. Equipment boxes

c. Sheds for co-locations on approved telecommunication towers or telecommunication sites.

60.4. Minor Site Plan Requirements.

1. *Minor Site Plan.* A minor site plan may be filed for an addition to or change of use for a commercial or industrial structure, or for an accessory commercial or industrial building or for a conditional use that does not require a building permit. If a field inspection indicates the scope of the proposed activity is such that the requirements of this Ordinance cannot be adequately addressed with a minor site plan, the Planning Director may require that a Major site plan be submitted. Minor site plans shall contain the following information as appropriate and as required by the Planning Director:

- a. Accurate sketch of the lot drawn to scale.
- b. Identification of the present record owner of the property.
- c. Vicinity map identifying the location of the site and the names and numbers of adjoining roads, streams, and other bodies of water, or other landmarks sufficient to clearly identify the location of the property and includes the following:
 - (1) Drawn to scale of at least 1"=2,000'.
 - (2) If applicable, shows the 1,000 foot critical area boundary.
 - (3) Contains a north arrow.
- d. Dimensioned vehicular entrance to the site.
- e. Location of water and sewer (septic) facilities, if required.
- f. Location of parking area and pavement marking for parking area stalls and lanes as required. All parking stalls shall be dimensioned on the plan.
- g. All existing and proposed structures shall:
 - (1) Be accurately located on the site.
 - (2) Show complete dimensions, including height.
 - (3) Show setbacks/build to lines.
- h. Proposed use of the structure or structural addition.
- i. Cubic yards of proposed cut and fill and total disturbed area, where appropriate.
- j. A graphic depiction of the limits of disturbance, where appropriate.
- k. Any additional information the Planning Director determines is necessary, considering the unique characteristics of the site and the proposed development, to evaluate compliance with the general site development standards, with limits of disturbance shown.
- l. For projects in the Critical Area, an environmental report.

60.5. Concept Site Plan Application Submission Requirements and Initial Review Procedures.

- 1. As a pre-requisite to the Concept Site Plan application, the applicant may request a pre-application meeting with the Director of Land Use and Growth Management and other relevant agencies to identify and discuss site access, resource protection, neighborhood impacts, adequate public facilities, compliance with the Comprehensive Plan and any relevant functional or small area plans.
- 2. Major site plan applications shall be initiated by filing a concept site plan application on a form approved by the Planning Director. The application shall be submitted and initially reviewed as follows:
 - a. The applicant shall submit a concept site plan and application on a form approved by the Planning Director. The plan, at a minimum, shall be prepared at a 1"=100' scale, identify properties within 200 feet of the perimeter of the site and include the following:

- 1 (1) Identification of the record owner of property.
- 2 (a.) If the property is leased, then an executed lease agreement must be
- 3 provided.
- 4 (2) Identification of adjacent property owners.
- 5 (3) Vicinity map identifying the location of the site and the names and numbers of
- 6 adjoining roads, streams, and other bodies of water, or other landmarks sufficient
- 7 to clearly identify the location of the property and include the following:
- 8 (a) Drawn to scale at least 1"=2,000'
- 9 (b) If applicable, shows the 1,000 foot Critical Area boundary.
- 10 (c) Contains a north arrow.
- 11 (4) A predevelopment sketch site plan on a separate sheet, showing current natural
- 12 and built environment and providing the following information.
- 13 (a) Boundaries of property including all bearings and distances.
- 14 (b) Existing topography at minimum 5-foot contour (cite source and date of
- 15 topography).
- 16 (c) Existing environmental features including:
- 17 i. streams,
- 18 ii. wetlands,
- 19 iii. floodplain,
- 20 iv. forest,
- 21 v. specimen trees,
- 22 vi. field, farmland,
- 23 vii. primary drainage patterns indicated with arrows, and
- 24 viii. soil types.
- 25 (d) Existing built features, including:
- 26 i. roads,
- 27 ii. parking,
- 28 iii. pedestrian and bicycle circulation,
- 29 iv. structures,
- 30 v. historic sites,
- 31 vi. stormwater management areas,
- 32 vii. fences,
- 33 viii. recreation areas, and
- 34 ix. community open space.
- 35 (e) Existing easements, overlay zones, and required buffers.
- 36 (5) A proposed development sketch site plan, on a separate sheet, showing proposed
- 37 development and providing the following information:
- 38 (a) Property boundaries.
- 39 (b) Limits of proposed grading on the site.
- 40 (c) Proposed topography at minimum five foot contour.

-
- 1 (d) Environmental features, as shown on the pre-development plan, and
2 proposed drainage patterns indicated with arrows.
- 3 (e) Existing features that will remain and proposed built features, including:
4 i. roads,
5 ii. parking,
6 iii. pedestrian and bicycle circulation,
7 iv. structures,
8 v. historic sites,
9 vi. stormwater management areas (including square footage of
10 structures),
11 vii. fences,
12 viii. recreation areas,
13 ix. community open space,
14 x. siting of water and sewage facilities, and
15 xi. conceptual landscaping.
- 16 (f) Proposed, dimensioned, access to public rights-of-way.
- 17 (g) Existing and proposed easements, overlay zones, and required buffers.
- 18 (6) Either a three-dimensional architectural sketch in color for the entire proposed-
19 development site, or four sections through the site (one each generally facing
20 north, south, east and west) showing existing and proposed grade and massing of
21 structures, landscaping, and existing vegetation to remain.
- 22 b. Once the Planning Director determines that the application and concept site plan are
23 complete as in paragraph a above, the application and concept site plan shall be referred to
24 the TEC for review and recommendations.
- 25 c. Once the TEC recommendations and report have been received, the Planning Director shall
26 determine whether the application and concept site plan require revision in accordance with
27 the TEC recommendations before submission to the Planning Commission for concept site
28 plan approval.

29 **60.6. Concept Site Plan**

- 30 1. For all non-residential and multi-family residential projects that require major site plan approval, a
31 concept site plan shall first be approved by the Planning Commission before the major site plan may
32 be processed for approval by the Planning Director.
- 33 2. The applicant shall create a phasing plan if the project size exceeds the County Annual Growth
34 Policy.
- 35 3. At a regularly scheduled meeting, the Planning Commission shall receive information regarding the
36 concept site plan for the applicant and the TEC. In addition, the Planning Commission shall consider
37 any information presented by the public.
- 38 4. In order to approve the concept plan, the Planning commission shall make findings that the
39 proposed development:
- 40 a. Is consistent with the Comprehensive Plan and applicable functional plans;
- 41 b. May be served by adequate public facilities as required by Section 70.2.2;
- 42 c. Is consistent with the County Annual Growth Policy, including any required phasing plans;
- 43 d. Will promote the health, safety, and welfare of the general public;

- 1 e. Adequately developed recreational and other community amenities are provided in
2 accordance with the Comprehensive Plan and the Comprehensive Zoning Ordinance;
- 3 f. Is consistent with Chapter 62 design objectives.
- 4 5. Based upon its findings, the Planning Commission may deny the concept site plan, approve the
5 concept site plan, or approve the concept site plan with conditions.
- 6 6. The applicant shall, upon Planning Commission approval, prepare a final site plan for approval by
7 the TEC agencies and Planning Director.
- 8 **60.7. Major Site Plan Requirements**
- 9 **1. Major Site Plan.** All site plans not determined by the Planning Director to be minor site plans shall
10 be considered major site plans. Major site plans shall contain at a minimum the following
11 information:
 - 12 a. Vicinity map identifying the location of the site and the names and numbers of adjoining
13 roads, streams, and other bodies of water, or other landmarks sufficient to clearly identify
14 the location of the property and includes the following:
 - 15 (1) Drawn to scale of at least 1"=2,000'
 - 16 (2) If applicable, shows the 1,000 foot Critical Area boundary.
 - 17 (3) Contains a north arrow.
 - 18 b. A boundary survey of the tract.
 - 19 c. Certificate setting forth the source of title of the owner of the tract and the place of record
20 or the last instrument in the chain of title, if such certificate has not been provided with a
21 development plan or concept development plan.
 - 22 d. General Notes addressing the following:
 - 23 (1) Identifying the property (Tax Map, Grid, and Parcel).
 - 24 (2) Acreage of the site.
 - 25 (3) Zoning and Overlay Zoning.
 - 26 (4) All proposed uses.
 - 27 (5) Floor area ratio calculations.
 - 28 (6) Parking calculations, both required and provided.
 - 29 (7) Landscaping requirements calculation table.
 - 30 (8) Complete Ownership and Developer information.
 - 31 (9) If the site is in the Airport Environs (AE) overlay zone, appropriate notes are
32 required.
 - 33 (10) If TDRs are to be used, a note describing final transfer serial numbers and
34 recording references are required.
 - 35 (11) If the project is in the Critical Area, all Critical Area notes are required.
 - 36 e. Location, type, and complete dimensions of vehicular entrances to the site.
 - 37 f. Location, complete dimensions, including height, of all existing and proposed buildings.
 - 38 g. All existing and proposed streets, private roads, and drive isles, their names, complete
39 dimensions, and inter-parcel connections.
 - 40 h. Location and complete dimensions of sidewalks and bike paths, including provisions for
41 handicapped movement.
 - 42 i. Location of all trash disposal or recycling containers.

- 1 j. All off-street parking, loading spaces, and walkways, indicating the type of surfacing; size;
2 pavement marking showing angle of stalls, width of aisles, including connection with
3 adjacent developments and dimensions of landscaped areas; and type of curbing.
- 4 k. All easements with dimensions.
- 5 l. Existing and proposed utilities.
- 6 m. All locations and sizes of proposed water and sewer installations or proposed additions to
7 existing water and sewer installations, as well as any design features that are unusual or
8 deviate from normal design practices. The proximity to the nearest hydrant and its area of
9 coverage shall also be shown.
- 10 n. Owners, zoning, and present use of adjoining tracts if not previously submitted with a
11 development plan.
- 12 o. Location, type, size, and height of fencing, retaining walls, and screen planting where
13 required under the provisions of this Ordinance.
- 14 p. Landscaping plans on a separate sheet.
- 15 q. Lighting Plan on a separate sheet, showing footprint of the illuminated area.
- 16 r. Signage Plan, on a separate sheet, including pavement markings.
- 17 s. Provisions for the adequate disposition of natural and storm drainage indicating location,
18 sizes, types, and grades of ditches, catch basins, and pipes and connections to existing
19 drainage system. Copies of all pertinent calculations and assumptions relative to the storm
20 drainage design (to include the delineation and consideration of the off-site contributing
21 watershed and affected areas) and provisions for sediment control and/or stormwater
22 management to be incorporated in all phases of construction, shall accompany the site plan
23 submissions for review by the Department of Public Works & Transportation and the Soil
24 Conservation District.
- 25 t. Description of all watercourses, impoundments, and wetlands on or adjacent to the site or
26 into which storm water flows.
- 27 u. Delineation of 100-year floodplains, if applicable.
- 28 v. Computations of hydrology, including hydraulic and structural computations and structural
29 classifications.
- 30 w. Existing topography with a maximum of two-foot contour intervals. Where existing
31 ground is on a slope of less than 2 percent, either one foot contours or spot elevations
32 where necessary, but not more than 50 feet apart in all directions. A drainage area map
33 shall be to a usable scale. Cite source and date of topographic information.
- 34 x. Proposed finished grading by contours supplemented where necessary by spot elevations.
35 Provide floor elevations for basement, first floor, and elevation of highest point above
36 grade for each structure. Provide spot elevations for high and low points on the site and
37 other elevations deemed appropriate.
- 38 y. All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to
39 be closest to 1/100 of a foot; and all bearings in degrees, minutes, and seconds to the
40 nearest 10 seconds. (Closure to be within acceptable survey tolerances.)
- 41 z. Elevation drawings in color that show any substantive changes from the original concept
42 elevations.
- 43 aa. Any additional information the Planning Director determines is necessary, considering the
44 unique characteristics of the site and the proposed development, to evaluate compliance
45 with the general site development standards.
- 46 bb. For projects in the Critical Area, an environmental report.

60.8. Site Development Standards.

The following standards shall be considered in determining whether to approve, approve with conditions or deny a site plan application:

1. Circulation design incorporates pedestrian walkways to enhance pedestrian circulation and handicapped accessibility in accordance with applicable federal and state requirements. Pedestrian circulation systems are provided as appropriate to connect building entries with parking areas, adjacent sidewalks and public uses, including schools and parks.
2. Location and design of vehicular access is adequate, the Director of the Department of Public Works and Transportation concurs with the location and design of access and the State Highway Administration concurs with the location and design of access to state maintained highways.
3. Vehicular travel lanes are provided for and comply with the standards for private roads and driveways established in the Subdivision Ordinance. Travel lanes and driveways adequately serve vehicular travel on the site and to and from adjacent parking areas and adjacent property. For any site bordering a state primary highway or adjacent to an existing service road in the arterial highway system, a developer may in lieu of providing travel lanes or driveways connected to adjacent parking areas and adjacent property, dedicate where necessary and construct a service road under County and state specifications.
4. Connection with similar facilities in adjacent developments is provided wherever possible for all walkways, travel lanes, driveways, curb and gutter and all other utilities, with similar facilities in adjacent developments.
5. Adequate traffic circulation and control and pavement markings are provided within the site and to access adjacent property.
6. Adequate setbacks, buffers, screening, fences, landscaping, walls, curbs, and gutters are provided as required by this Ordinance.
7. Easements or rights-of-way are provided for all facilities to be publicly maintained. Each easement shall be clearly defined for the purpose intended.
8. Traffic control devices adequate to prohibit parking are provided along vehicular travel lanes or driveways.
9. Adequate parking areas are provided in terms of location, layout, design and numbers of parking spaces.
10. Adequate drainage system and stormwater outfall, water supply, fire protection, sewerage facilities, and other public facilities are provided, in accordance with the provisions of this article and Chapter 70, Adequate Public Facilities.
11. Adequate temporary and permanent erosion and sediment control measures according to the requirements of this Ordinance.
12. According to the requirements of this Ordinance, open space and recreation area designations and reservations may be required to preserve natural areas, stream belts, historic sites, wetlands and other areas of critical concern to the County. Designation and reservation of open space and recreation area may be prescribed by easements, acquisitions, dedications or other appropriate means. Floodplains, flood hazard areas, and areas within the regulatory flood zones may be included in such reservations and designations. The applicant shall submit specific arrangements for the perpetual management and responsibility of the designated open space and recreation area.
13. Refuse storage areas are provided in such numbers and at such locations as to provide for the convenient storage and collection of garbage and trash.
14. In areas that are susceptible to high water table (perched or seasonal), the engineer shall provide pavement design and measures to assure dry basements and to preclude the ponding of water around the foundation of the structure or in the parking lot.

1 **60.9. Expiration, Extension and Appeal.**

- 2 1. **Expiration.** Concept site plan approval shall expire two years after the date of such approval unless
3 final site plan approval has been obtained. Final approval of a major or minor site plan submitted
4 under the provisions of this chapter shall expire one year after the date of such approval unless
5 building permits have been obtained for construction in accordance therewith. Any phasing
6 anticipated with the concept or final site plan shall remain in full force and effect for as long as the
7 site plan remains compliant with the phasing plan.
- 8 2. **Extension.** A single one-year extension may be given by the Planning Director upon written request
9 by the applicant to be made within 30 days before the expiration of the approved concept site plan
10 or final site plan. The Planning Director shall act on the request within 15 days of receipt of the
11 request.
- 12 3. **Appeal.** Any person aggrieved by a decision of the Planning Commission or Planning Director
13 regarding site plan applications may appeal to the Board of Appeals within 30 days of the decision.

14 **60.10. Amendments.**

15 Site plans may be revised in the same manner as originally approved.

16 **60.11. Public Works Agreements and Performance Bonds, Letters of Credit or Other Surety.**

17 Prior to approval of any site plan, the owner or developer shall submit an executed agreement to construct
18 required physical improvements that are located within public rights-of-way or easements or are connected to
19 any public facility, together with a bond with surety acceptable to the County in the amount of the estimated
20 costs of the required physical improvements. The time for completion of all work covered by any agreement
21 and bond may be extended upon written application by the owner or developer, signed by all parties
22 (including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond
23 hereunder shall be determined by the Director of Public Works and Transportation, or the Director of the
24 Metropolitan Commission as applicable with the concurrence of all the TEC agencies. The legal sufficiency
25 of the bond form shall be determined by the County Attorney.

26 **60.12. Inspection and Supervision During Installation.**

- 27 1. Generally
- 28 a. Unless specifically provided in this chapter, the construction standards for all off-site
29 improvements and on-site improvements required by this Ordinance shall conform to the
30 design and construction standards of this Ordinance.
- 31 b. Appropriate County authorities shall approve the plans and specifications for all required
32 improvements and shall inspect the construction of such improvements to assure
33 conformity thereto.
- 34 c. Inspection during the installation of the off-site improvements shall be made by the
35 department responsible for such improvements as required to certify compliance with the
36 approved site plan and applicable standards.
- 37 d. The installation of improvements as required in this Ordinance shall in no case serve to
38 bind the County to accept such improvements for maintenance, repair, or operation by the
39 County.
- 40 2. **Process.**
- 41 a. The owner shall notify the appropriate County agencies in writing before beginning any
42 street or storm sewer construction shown on the site plan. Notice must be received by the
43 appropriate County agency at least three days prior to the beginning of any work.
- 44 b. Upon satisfactory completion of the required improvements and after receiving verification
45 by the appropriate County approving authorities, the Director of Public Works and
46 Transportation shall have the authority on behalf of the Board of County Commissioners to
47 release any bond or other form of surety that may have been furnished for the guarantee of
48 satisfactory installation of such improvements or parts thereof. This release may provide
49 for 10 percent of the total bond to be retained for a period up to 24 months after completion

1 of all work. This retainage shall be for the protection of the County to cover failures or
2 discrepancies in the previously approved improvements, and may be used for additional
3 improvements not previously approved but deemed necessary for health, safety, and
4 welfare reasons.

5 **60.13. Compliance with Site Plan.**

- 6 1. **Final Inspection.** The Planning Director shall determine whether the site complies with the
7 approved site plan before an occupancy permit is issued for the project. Upon request of the
8 Planning Director the developer shall submit two copies of the "as-built" site plan for review and
9 approval to determine conformity with the approved site plan. The Planning Director may withhold
10 the occupancy permit until the appropriate "as built" site plan has been reviewed and approved. Any
11 deficiencies shall be recorded in a letter to the applicant. The owner and the agent shall have 10
12 days in which to eliminate the deficiencies. The Planning Director may issue a temporary
13 occupancy permit indicating the date by which the deficiencies shall be eliminated.
- 14 2. **Eligibility for Occupancy Permit.** Upon satisfactory inspection for compliance with requirements
15 of the site plan, a certificate of occupancy shall be issued.

16 **60.14. Construction of Required Public Improvements.**

- 17 1. Prior to the acceptance of any public improvement, the applicant shall provide sufficient testing data
18 and certifications to demonstrate that the improvements have been properly constructed as depicted
19 on the approved plan and to the standards prescribed by the County or other agency accepting the
20 improvement. The cost of all testing and certification shall be borne by the applicant.
- 21 2. The applicant shall furnish permanent, black line, reproducible as-built record drawings of public
22 improvements constructed. Digital drawings shall be prepared and submitted in accordance with
23 standard specifications approved by the Director.

CHAPTER 61 GENERAL DEVELOPMENT STANDARDS

Sections:

- 61.1 Specific Purposes and Applicability.
- 61.2 Exceptions to Height Limits.
- 61.3 Lighting Standards.
- 61.4 Noise Standards.
- 61.5 Refuse Storage Areas.
- 61.6 Screening of Mechanical Equipment.
- 61.7 Yards Requirement.
- 61.8 Site Access Criteria.

61.1. Specific Purposes and Applicability.

This chapter contains supplemental land use and use-specific site development requirements that are applicable to development in all zoning districts and for all use categories except for single-family detached dwellings, unless otherwise stated. References to buffer yards are to the types and specifications established in Schedule 63.4.3, Landscaping and Buffer Yards.

61.2. Exceptions to Height Limits.

Except for height limitations imposed in the AICUZ/AE overlay districts in Article 4, height limitations of this Ordinance shall not apply to:

Public monuments	Chimneys	Standpipes	Cooling towers
Commercial television antenna	Belfries	Conveyors	Smoke stacks
Stage towers or scenery lots	Church spires	Water towers	Elevator bulkheads
Ornamental towers and spires	Silos	Water tanks	Flag poles
Commercial public radio antenna	Fire towers	Public communication towers, Public communication Antenna	Athletic/Sports field lighting

61.3. Lighting Standards.

1. **General Requirements.** Exterior lighting will be evaluated in the site plan review process to ensure that functional and security needs of the project are met in a way that does not adversely affect adjacent properties or neighborhoods. The degree to which exterior night lighting affects the project, and adjacent properties or the neighborhood will be evaluated considering the light source, level of illumination, hours of illumination, and need for illumination.
 - a. Maximum on-site lighting levels must not exceed 10 foot-candles, except for loading and unloading platforms where the maximum lighting level must not exceed 20 foot-candles and with the exception of athletic field lighting which shall be governed by the Illumination Engineering Society of North America (IESNA) RP-6-1 Recommended Practice for Sports and Recreational Area Lighting.
 - b. Light levels measured at any property line shall be measured at a height of six feet and not cause illumination in excess of 0.5 foot-candle above the background level present when all on-site lights are turned off. An Administrative Variance may be obtained for athletic field lighting exceeding 0.5 foot candle at the property line and applicants shall consider all possible design features, to the maximum extent feasible, that will reduce spill and glare.

- 1 c. Light levels measured one foot above any exterior light fixture shall not cause
2 illumination in excess of 0.5-foot candle above the background level present when all
3 onsite lights are turned off.
- 4 d. Light levels measured three feet to the side (toward the nearest property line) and even
5 with the bottom of any exterior light fixture shall not cause illumination in excess of 0.5
6 foot-candles above the background level present when all on-site lights are turned off.
- 7 e. Outdoor parking facility lighting shall not employ a light source higher than 30 feet.
- 8 2. **Design Standards.** The proposed lighting must also comply with the following design standards:
 - 9 a. Fixtures shall be of a type and design appropriate to the lighting application.
 - 10 b. For lighting roadways, sidewalks, paths, entrances, and parking areas, fixtures shall be
11 aimed straight down.
 - 12 c. Fixtures shall be equipped with light directing and or shielding devices such as shields,
13 visors, skirts, or hoods to redirect offending light distribution and or to reduce direct or
14 reflected glare.
 - 15 d. Site lighting that may be confused with warning, emergency or traffic signals is
16 prohibited.
 - 17 e. Areas, such as parking lots, must be illuminated as unobtrusively as possible to meet the
18 functional needs of safe circulation and protecting people and property. Areas, such as
19 building entrances and plaza seating areas must use local lighting that defines the space
20 without glare.
 - 21 f. Light sources must be concealed or shielded to the maximum extent feasible to minimize
22 the potential for glare and unnecessary diffusion on adjacent properties and to eliminate
23 to the maximum extent possible illumination of the night sky.
 - 24 g. Flickering or intense sources of light shall be controlled so as not to cause a nuisance
25 across any lot lines.
 - 26 h. Lighting systems should include timing devices to turn off unneeded lighting during time
27 the project is not in use.
 - 28 i. Outdoor lighting should be efficient but not excessive.
 - 29 j. Outdoor lighting should be designed to enhance safety.
 - 30 k. The use of accent lighting on buildings and in landscaped areas is encouraged, provided
31 such lighting does not create off-site glare or increase light pollution.
 - 32 l. Commercial lighting should be directed away from residential areas. As a general rule,
33 the cumulative total height of light poles and mounting base (if any) should not exceed
34 the height of the building.

35 **61.4. Noise Standards.**

- 36 1. Except for emergency service land uses, agricultural activities, agricultural operations, and bona-
37 fide agricultural uses or activities, or in the event of loss of utility service, no use shall create
38 ambient noise levels that exceed the following standards:
39

SCHEDULE 61.4.1: MAXIMUM NOISE STANDARDS BY ZONING DISTRICT

Zone of Property Receiving Noise*	Maximum Noise Level Ldn or CNEL, dB
Residential Districts: RL, RH, RMX, RLT, RPD and RNC	60
Commercial and Mixed Use Districts: CC, DMX, CMX, TMX, VMX, RCL, and RSC	65
Office, Business Park: OBP	65
Industrial and Marine Districts: I, CM	70
Planned Development	In accordance with base district
* Refer to Chapter 53 for exemptions for agricultural activities.	

- 2 2. ***Duration and Timing.*** The noise standards above shall be modified as follows to account for the
3 effects of time and duration on the impact of noise levels:
- 4 a. In residential districts, the noise standard shall be 5 dB lower between 10:00 p.m. and
5 7:00 a.m.
- 6 b. Noise that is produced for no more than a cumulative period of five minutes in any hour
7 may exceed the standards above by 5 dB.
- 8 c. Noise that is produced for no more than a cumulative period of one minute in any hour
9 may exceed the standards above by 10 dB.
- 10 3. ***Acoustic Study.*** The Planning Director may require an acoustic study. The Planning Director may
11 require an acoustic study for any proposed project that could have or create a noise exposure
12 exceeding the standards above. For any study required, noise shall be measured with a sound
13 level meter, that meets the standards of the American National Standards Institute (ANSI Section
14 S1.4-1979, Type 1 or Type 2). Noise levels shall be measured in decibels from the property line.
15 The unit of measure shall be designated as dB. A calibration check shall be made of the
16 instrument at the time any noise measurement is made.
- 17 4. ***Noise Attenuation Measures.*** The Planning Director may require the incorporation into a project
18 of any noise attenuation measures deemed necessary to ensure that noise standards are not
19 exceeded.
- 20 **61.5. Refuse Storage Areas.**
- 21 1. Prior to occupancy refuse storage areas shall be screened from view on all sides by a six foot solid
22 wood fence or masonry wall or located within a building. Refuse storage areas must be setback
23 from street entrances and not obstruct the site view and may not be located in a front yard.
- 24 **61.6. Screening of Mechanical Equipment.**
- 25 1. ***Screening Specifications.*** All exterior mechanical equipment, except solar collectors and
26 operating mechanical equipment in an I District located more than 100 feet from another district
27 boundary, shall be screened so that it is not visible from a street or adjoining lot. Equipment to be
28 screened includes, but is not limited to, heating, air conditioning, and refrigeration equipment;
29 plumbing lines; ductwork; and transformers. Screening of the top of equipment may be required
30 by the Planning Director, if necessary, to protect views from a residential district. Screening
31 materials may have evenly distributed openings or perforations averaging 50 percent of the surface
32 area.
- 33 **61.7. Yards Requirement.**
- 34 1. ***General Requirements.*** Minimum setback requirements for each zoning district are set forth in
35 Schedule 32.1 of this Ordinance. Additional landscaping and buffer yard requirements are
36 included in Chapter 63, Landscaping and Buffer Yards.
- 37 2. ***Accessory Buildings.*** All accessory buildings that are attached to principal buildings (e.g., an
38 attached garage) shall comply with the yard requirements of the principal building, unless
39 otherwise specified in this Ordinance.

1 3. **Official Right-of-way Line.** Where a right of way has been established for the future widening or
2 opening of a public or private street, lane, or major thoroughfare upon which a lot abuts, the depth
3 of a front or side yard shall be measured from such right-of-way line to the nearest line of the
4 building. The right-of-way line shall be determined by a licensed land surveyor and comply with
5 a recorded plat or approval by the Director of Public Works and Transportation.

6 4. **Permitted Improvements in Yards.** Improvements may be located in required yards as follows:

7 a. Open or unenclosed decks or platforms, not including a permanently roofed-over porch;
8 awnings and canopies, provided they do not extend or project into the yard more than six
9 feet; steps that are necessary for access to a permitted building or for access to a lot from
10 a street or alley; chimneys projecting into the yard; recreational equipment; laundry-
11 drying equipment; approved free-standing signs; arbors and trellises; flag poles; window
12 unit air conditioners projecting into the required yard; and fences or walls subject to
13 applicable height restrictions are permitted in yards.

14 b. **Front Yards.** Bay windows projecting into front yards and overhanging eaves and gutters
15 projecting three feet or less into the yard are permitted.

16 c. **Rear and Side Yards.** Open off-street parking spaces unless otherwise prohibited in this
17 Ordinance, balconies or outside elements of central air conditioning systems extending
18 into the yard, breezeway and open porches, one-story bay windows projecting into the
19 yard, and overhanging eaves and gutters projecting into the yard are permitted.

20 d. **Limitations on Obstructions.** Permitted obstructions and detached accessory structures
21 shall not, in the aggregate, occupy more than 25 percent of any required yard.

22 e. **Reduction of Side and Rear Yard Requirements.** The width of the side or rear yard for any
23 structure in any zoning district may be reduced to zero, provided:

24 (1) Principal structures shall not be located on side property lines that are zoning
25 boundaries between residential and commercial zones or residential and
26 industrial zones.

27 (2) Any principal structure located on a side property line shall have an
28 unpenetrated fire wall with a one and one-half hour fire rating or greater, as
29 required by the building code adopted by the Board of County Commissioners.

30 (3) The requirement for any public easements on or adjacent to the side yard
31 property line upon which the principal structure is located shall be waived by the
32 appropriate public agency.

33 (4) On any residential lot where a single-family detached, single-family attached, or
34 duplex dwelling unit is located within a side yard, an unimpeded access way
35 with a minimum width of 15 feet shall be provided to allow access from the
36 front to the rear of the lot.

37 (5) An agreement in recordable form that provides for the construction and
38 maintenance of a principal structure within the standard side or rear yard shall
39 be executed with the owners of all properties that abut a side or rear property
40 line upon which a principal structure is located. Said agreement shall name the
41 County as a third party beneficiary, to be filed with the building permit and be
42 recorded among the Land Records of St. Mary's County to run with and bind
43 upon the land.

44 **61.8. Site Access Criteria.**

45 All developments subject to the provisions of Site Plan Review shall be designed to conform to the
46 following standards:

47 1. Left turn movements and conflicts with through traffic shall be minimized by access designs that
48 reflect and respond to local traffic conditions. Driveways shall be designed to achieve clear sight
49 lines in accordance with the provisions of the Road Ordinance.

- 1 2. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic
2 congestion, provisions shall be made for turning lanes, traffic directional islands, frontage roads,
3 driveways, and traffic controls within the road in concert with approved traffic study.
- 4 3. Where reasonable access is available, vehicular access to the site should be arranged to avoid use
5 of local residential streets situated in or bordered by residential zoning districts.
- 6 4. Where a site or lot has frontage on two or more roads, the access to the site should be provided
7 from both roads. Primary site access shall be from the road which has less potential for traffic
8 congestion and for hazards to traffic and pedestrian movement.
- 12/18/12 9 5. The roads giving access to the site should have traffic carrying capacity and be suitably improved
10 to accommodate the amount and type of traffic generated by the proposed development, in
11 accordance with the provisions of Chapter 70, Adequate Public Facilities. Private roads, drives, or
12 accesses serving one (1) to seven (7) lots shall meet the requirements of the St. Mary's County
13 Subdivision Ordinance for private roads, as amended from time to time.
- 14 6. Where necessary to provide for suitable access or for extension or construction of planned
15 highway system improvements, provisions shall be made for appropriate continuation of streets
16 and roads terminating on a site.
- 17 7. Pad sites shall be designed to allow continuation of access routes onto adjacent parcels. Unless
18 prohibited by environmental constraints, access roads, drive aisles and/or parking lots shall
19 provide for opportunity to connect to adjacent parcels. Easements or rights-of-way shall be
20 established, aligned with and extended to property lines for the purposes of connecting to similar
21 facilities on adjacent parcels.

1 **CHAPTER 62 DESIGN**

2 Sections:

- 3 62.1 Specific Purposes.
4 62.2 Applicability.
5 62.3 Countywide Design Objectives.
6 62.4 Design Standards for Residential Subdivisions in the Rural Preservation District.
7 62.5 Townhouse, Single-Family Attached, and Multi-family Residential Development.
8 62.6 Commercial and Mixed Use Development.
9 62.7 Design Standards for Industrial and Business Park Development.
10 62.8 Development in Scenic Corridors.

11 **62.1. Specific Purposes.**

12 The specific purposes of the design standards and guidelines are to:

- 13 1. Protect the value of public and private investment;
14 2. Promote attractive development that serves to reinforce and enhance the appearance and character of
15 the County, consistent with the Comprehensive Plan;
16 3. Provide for the careful consideration of key elements of building form, design, and context in the
17 County, without limiting the potential for architectural innovation;
18 4. Supplement the development standards and requirements in residential, commercial, and industrial
19 districts to inform architectural design, landscaping, and site planning decisions; and
20 5. Increase public awareness of the value of historic architecture and design issues in the County.

21 **62.2. Applicability.**

22 These design standards and guidelines apply to all development requiring site plan review, pursuant to
23 Chapter 60, and to residential subdivisions in the Rural Preservation District.

- 24 1. When development contains a mix of uses, the design standards and guidelines applicable to each
25 use apply, respectively, but shall be applied to encourage harmony of design throughout the project
26 and with due regard for the County's objective of encouraging mixed use projects in development
27 districts, town centers and village centers.

28 **62.3. Countywide Design Objectives.**

29 A key goal of the St. Mary's County Comprehensive Plan is to encourage the efficient use of land throughout
30 the County by focusing on the development and redevelopment of existing parcels and structures. As part of
31 this goal, a plan objective is to foster and enhance the sense of community and remedy negative conditions in
32 existing developed areas. This is to be achieved by creating design and performance standards to promote
33 quality design and compatibility with existing development. These design and performance standards are to
34 address landscaping, architecture and design, signs, and stormwater management. This chapter of the
35 Ordinance, in conjunction with other chapters in Article 6, Site Design Standards and Approvals, is intended
36 to implement this plan policy with respect to architecture and design.

37 These criteria are not intended to restrict imagination, innovation or variety. Monotony of design in single or
38 multiple, building projects should be avoided. Variation in detail, form and siting should be used to provide
39 visual interest. The following design considerations must be addressed in narrative and graphic form with
40 any major site plan submission:

- 41 1. **Harmony of Design.** Buildings and accessory structures should be designed to reflect the County's
42 history and status as a rural Chesapeake Bay peninsula by using traditional design elements that are
43 typical of the Southern Maryland Tidewater region. In furtherance hereof:
44 a. Within this basic design framework, buildings and accessory structures may vary from
45 detailed copies of traditional architectural designs to contemporary interpretations of these
46 designs.

-
- 1 b. All of the design elements associated with a building (fences, storage sheds, etc.) should be
2 coordinated with the overall style of the building.
- 3 c. New buildings should strengthen site-specific or community design attributes by framing
4 views, enclosing open spaces or continuing particular design features or statements.
- 5 2. **Scale.** All of the design elements on the building should be kept in scale with the building and be in
6 the same architectural style as the overall style of the building. In furtherance hereof:
- 7 a. Building mass should show variations of form. Building mass shall be broken up into
8 smaller components by the use of offsets and other design techniques.
- 9 b. Buildings and accessory structures should be compatible with neighboring buildings and
10 structures in terms of height, proportion, and scale.
- 11 c. A human scale should be achieved at ground level, at entryways, and along street and yard
12 frontages through the use of such elements as windows, doors, columns and canopies.
- 13 d. The structural lines of a building and its material should be retained at the storefront level.
- 14 3. **Colors.** Colors and tones on walls and roofs should be muted. Bright and/or shiny colors, if used at
15 all, should be used as accents only.
- 16 4. **Exterior.** Exterior building components including accessory structures in view of public rights-of-
17 way, publicly accessible yards, internal access roads, parking and driveways should be limited to
18 brick, wood, stucco, horizontal or vertical board, shingles, split face or finished block, stone, and
19 “architectural metal” and/or their synthetic equivalents. In furtherance hereof:
- 20 a. Building materials applied to any building wall fronting or visible from a public street
21 should wrap around onto the adjoining wall, unless sideboard trim is applied, in order to
22 provide finished appearance.
- 23 b. Windowless walls at ground level adjacent to major pedestrian travel ways shall be avoided
24 where practicable.
- 25 c. Service bay openings should not be visible from public rights-of-way where practicable.
- 26 5. **Materials.** Materials should be selected for their durability and wear. Proper measures should be
27 taken for protection against weather, neglect, damage and abuse.
- 28 6. **Entrances.** All entrances to a building should be defined and articulated by architectural elements
29 such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades
30 and others, where appropriate.
- 31 7. **Roofs.** Pitched roofs are preferred. Flat roofs should be modified through the use of pediments and
32 other traditional design motifs around all sides visible from public rights-of-way. All mechanical
33 equipment or other utility hardware on roofs shall be screened from view from publicly accessible
34 areas and rights-of-way.
- 35 8. **Sustainability.** Remodeling of existing structures instead of building new ones is encouraged.
36 Development that maximizes solar access and other “green design”, including landscaping that
37 utilizes indigenous species located to achieve energy and water conservation, increased property
38 values and other amenities is encouraged.
- 39 9. **Sense of Community.** Residential areas should provide safe and comfortable passage for residents,
40 regardless of physical challenge, to commercial and service areas and transportation networks.
- 41 **62.4. Design Standards for Residential Subdivisions in the Rural Preservation District.**
- 42 1. Purpose and Applicability.
- 43 a. Single-family detached residential communities outside growth areas shall be designed to
44 fit into the existing rural landscape in a manner that will retain the land’s capacity to grow
45 crops, produce timber, provide wildlife habitat, prevent soil erosion, provide recreational
46 open space, contribute to maintaining clean water and air and preserve rural character.

- 1 These features not only contribute to the health and welfare of County residents but also
2 contribute to the economic base by providing jobs and revenues in resource-related and
3 tourism-related enterprises. New buildings and roads shall be designed to enhance rather
4 than to replace these important existing features. Site disturbance shall be held to a
5 minimum.
- 6 b. These design standards are applicable to major subdivisions for residential development in
7 the RPD.
- 8 c. These design standards govern the configuration of lots, roads and driveways, open space
9 and other elements of a subdivision that will advance the purposes of this section. These
10 design standards shall not restrict the design or appearance of detached single family
11 residential structures.
- 12 2. Community Design.
- 13 a. RPD subdivisions shall be designed to fit into the existing rural landscape in a manner that
14 will retain the land's capacity to support farming, produce timber, prevent soil erosion, and
15 provide open space.
- 16 b. Design Criteria. RPD subdivisions shall:
- 17 (1) Cluster lots on 50 percent or less of the lot(s), tract(s), or parcel(s) proposed for
18 subdivision; and
- 19 (2) When required by the Director, incorporate the following into project design:
- 20 (a) Avoid use of cul-de-sacs and use alternative turnarounds for unavoidable
21 dead-end streets and, where they cannot be avoided, new lots shall front
22 on one side of the street and dwelling front yards shall face the open
23 space parcel.
- 24 (b) Avoid use of flag lots.
- 25 (c) Utilize shared driveways on at least 50 percent of the lots.
- 26 (d) Provide on-lot stormwater management.
- 27 (e) Provide open section (no curb) roads and vegetated open channels in the
28 right of way.
- 29 (f) Establish appropriate long-term protection for open space and
30 agricultural preservation such as but not limited to environmental or
31 agricultural easements with a private land trust, the County or the State
32 for permanent open space and agricultural protection.
- 33 (g) Construct walking or biking paths within greenways, open space or rights
34 of way.
- 35 (h) Where practical, pedestrian access to adjacent commercial areas, schools,
36 parks and other public uses shall be provided.
- 37 (i) Minimize disturbance to open space, farmland and sensitive areas, except
38 that public and private utilities and sewage reserve areas may be provided
39 access through open space areas.
- 40 (j) In the event a parcel includes areas which have been identified in an
41 officially adopted plan as part of a trail, greenway or park, these areas
42 shall be included in the open space area which shall either be dedicated to
43 the County or otherwise protected.
- 44 (3) When required by the Director, the applicant shall record deed restrictions and plat
45 notes to implement the above design criteria.

-
- 1 3. Site Design.
- 2 a. Lots and roads shall be located in areas where they will contribute to preserving and
- 3 maintaining existing farm structures as well as the scenic and rural character of the County.
- 4 b. Contiguous blocks of open space are preferred.
- 5 c. Lots and roads shall be located at forest edges and clustered in a manner that will maximize
- 6 the size of contiguous forest and minimize the removal of forest canopy or understory.
- 7 4. Protection of Existing and Prime Farmland.
- 8 a. Buildings and roads shall be located in a manner that will retain existing cropland, pasture
- 9 and meadow. Nonfarmstead lots and roads shall be located to avoid dividing existing
- 10 farmland.
- 11 b. Protection of Farmland and of Prime and locally significant Agricultural Soils: The portion
- 12 of the open land that is to be retained on a tract should be determined with reference to the
- 13 location of cropland on adjacent properties so as to maintain contiguity where feasible.
- 14 (1) Except as provided in (2) below, if the land in the tract has Class I, Class II Class
- 15 III or locally significant agricultural soils (as defined by the Soil Survey of St.
- 16 Mary's County, Maryland, prepared by the U.S. Dept. of Agriculture Soil
- 17 Conservation Service), the development envelope may include up to 20 percent of
- 18 such soils.
- 19 (2) The Director may authorize the development envelope in a rural subdivision to
- 20 include more than 20% of the prime and locally significant agricultural soils on a
- 21 tract when
- 22 (a) The prime and locally significant agricultural soils occupy more than
- 23 75% of the land in a tract that is unencumbered by sensitive areas defined
- 24 and protected in accordance with Chapter 72; or
- 25 (b) The prime and locally significant agricultural soils to be included in the
- 26 development envelope are already developed with existing farm roads
- 27 and historic or agricultural structures which are designated to remain
- 28 substantially unaltered as part of the overall design of the rural
- 29 subdivision.
- 30 c. A buffer measuring up to 200 feet may be required by the Director along the common
- 31 boundary between lots and active farms, protected agricultural soils, protected farmland,
- 32 and Agricultural Land Preservation Districts.
- 33 d. Either fencing or a continuous hedgerow shall be planted along the common boundary
- 34 between nonfarmstead lots and active farms, protected agricultural soils, protected
- 35 farmland, and Agricultural Land Preservation Districts.
- 36 5. Historic Resources.
- 37 a. The Planning Commission may require preservation of sites listed on the state historic sites
- 38 inventory or National Register of Historic Sites by incorporating them into the overall
- 39 design of the project, setting them on protected open space, or protecting them with a
- 40 historic easement.
- 41 b. In the event any building on the site is 50 years or older, the Director shall be notified and
- 42 shall determine whether the building has historic merit.
- 43 c. The Planning Commission may require that existing farm operations or historic structures
- 44 be screened from new houses.
- 45 6. Protection of Rural Character.
- 46 a. Lots and roads shall be designed to maintain and enhance a visually attractive rural
- 47 landscape.

- 1 b. Front roadway buffer.
- 2 (1) Building sites shall be designed to afford the least visibility from existing public
- 3 roads. A front roadway buffer shall be provided along all public roads except
- 4 those internal to the subdivision.
- 5 (2) Where a naturally vegetated buffer exists, it shall be maintained for a width of at
- 6 least 100 feet from the public right of way to the nearest new residential lot line.
- 7 (3) Where the vegetated buffer is less than the above, it shall be supplemented with
- 8 new plantings to create a 100 foot buffer.
- 9 (4) No plantings are required if open space is provided for a width of at least 200 feet
- 10 from the public right of way to the nearest new residential lot line.
- 11 (5) Houses adjoining open space should be situated so that the rear of the houses are
- 12 not visible from the public road.
- 13 (6) Exceptions:
- 14 (a) A buffer shall not be required on land that is located in an Agricultural
- 15 Land Preservation District (ALPD).

16 **62.5. Townhouse, Single-Family Attached, and Multi-family Residential Development.**

17 These design standards are intended to ensure the compatibility of new buildings and additions within

18 existing neighborhoods. Compatibility may be achieved only by carefully considering how a project relates

19 to its surroundings, including the neighborhood itself, adjacent buildings and uses, open space, and the street.

20 Where development includes a commercial component, the standards provided in Section 62.6 shall apply to

21 that component. The following design standards apply to all multi-family residential developments.

- 22 1. **Building Form.** Building form is important in ensuring the compatibility of new buildings and
- 23 additions within existing neighborhoods. Key elements of design related to building form include
- 24 height, width and proportion, and roof type.
- 25 a. **Height.** New buildings and additions should not result in heights that overwhelm the scale
- 26 of existing neighborhoods and, in particular, the scale of immediately adjacent buildings.
- 27 The maximum height limits in residential districts, specified in Schedule 32.1 of the
- 28 Ordinance, are subject to the following additional requirements:
- 29 (1) Where townhouse, single-family attached, or multi-family residential
- 30 development abuts detached single family residential development, an upper-story
- 31 setback above the second story shall be provided at a rate of at least one foot for
- 32 every one foot of additional height. Refer to figure 62.4.1.a.
- 33



34 **Figure 62.5.1.a .: UPPER STORY SETBACK ADJACENT TO SINGLE FAMILY RESIDENTIAL**

- 36 b. Buildings containing three or more attached row dwellings shall include at least one change
- 37 in building plane or architectural projection.

c. All residential development which proceeds under site plan review must meet the Open Space Reservation, Dedication and Fees in Lieu standards of Chapter 31 of the Subdivision Ordinance.

2. **Residential Open Space.** Common or private open space provides access to the outdoors, which is particularly important in higher density residential and mixed use developments. The design standards and criteria for residential open space required for townhouse, single-family attached, or multi-family residential development are intended to ensure that suitable, well designed usable open and developed recreational open space is provided.

62.6. Commercial and Mixed Use Development.

The following design standards and guidelines apply to all commercial and mixed use development in County growth area districts, requiring site plan review pursuant to Chapter 60. These design standards are intended to ensure the compatibility of new buildings and additions within existing commercial and mixed use neighborhoods. The design standards and criteria provided in Section 62.5 apply to the multi-family residential component of all mixed use development.

1. **Building Form.** Building form is a key factor in ensuring the compatibility of new buildings and additions in existing commercial and mixed use neighborhoods. Elements of design related to building form include height, width and proportion, and roof type.

a. **Height.** New buildings and additions should not result in heights that overwhelm the scale of existing buildings on the street and, in particular the scale of immediately adjacent buildings. The maximum height limits in commercial and mixed use districts, as specified in Schedule 32.1 of the Ordinance, are subject to the following additional requirements:

(1) Where commercial and mixed use development abuts single family residential development, an upper-story setback above the second story shall be provided at a rate of at least one foot for every one foot of additional height. Refer to Figure 62.5.1.a.

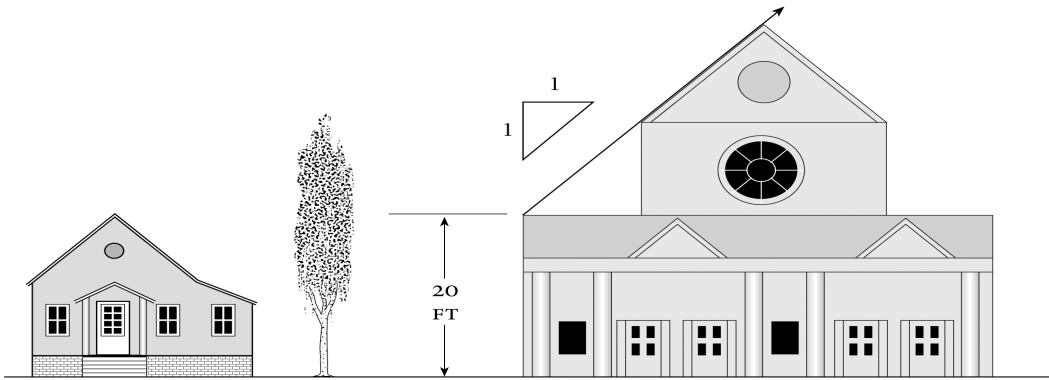


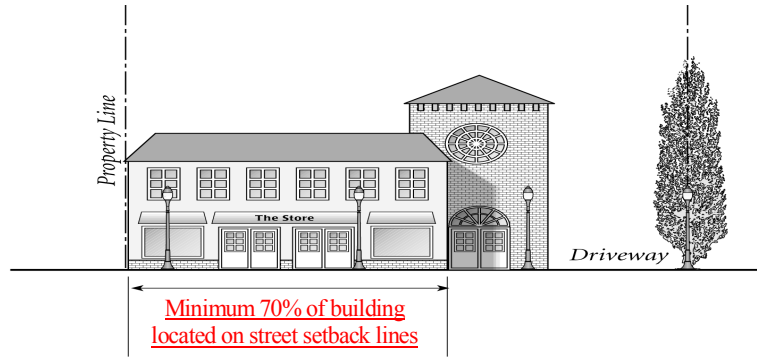
Figure 62.6.1.a: UPPER STORY SETBACK ADJACENT TO SINGLE FAMILY RESIDENTIAL

b. **Width and Proportion.** Facades greater than 100 feet in length, measured horizontally, must incorporate changes in building planes or architectural projections. Façade articulation, fenestration, and other architectural elements should be used to reduce apparent bulk and to maintain proportion where the scale and mass of new buildings and additions differs from that of existing structures.

c. **Roof Type.** Roof design is an integral element in the visual image of a commercial area. Roof design for new commercial and mixed use buildings and additions generally should maintain the prevailing character and scale of other roofs along the street or road. Roofs must have at least two of the following features:

(1) Parapets concealing flat roofs and rooftop equipment from public views. Parapets must feature three-dimensional corner treatments.

-
- 1 (2) Sloping roofs with an average slope greater than or equal to one foot of vertical
2 rise for every three feet of horizontal run.
- 3 (3) Three or more roof slope planes-mansard, flat, or pitch, and materials that relate to
4 the character of the neighborhood.
- 5 2. **Street Presence.** In addition to compatible built form, several design elements have a significant
6 impact on the presence a building will have on the street. This is particularly important in
7 development districts, town centers and village centers, where these design elements must integrate
8 built form and the pedestrian environment in order to provide a vibrant, safe public space. Along
9 commercial corridors, the auto-oriented street presence is defined by easy access and integrated
10 design. Key elements contributing to street presence include building orientation and placement,
11 storefront design, building materials and details, access, and landscaping.
- 12 a. **Orientation and Placement.** The relationship of a building to the street is a primary factor
13 in determining street presence in commercial and mixed use development.
- 14 (1) Entryways. All new commercial and mixed use buildings and additions should
15 have clearly-defined, highly visible visitor/customer entrances with at least three
16 of the following:
- 17 (a) Canopies or porticos.
- 18 (b) Overhangs.
- 19 (c) Recesses or projections.
- 20 (d) Arcades.
- 21 (e) Peaked roof forms.
- 22 (f) Raised cornice parapets over the door(s).
- 23 (g) Outdoor patios.
- 24 (h) Display windows.
- 25 (2) Pedestrian-oriented commercial and mixed use development within Development
26 Districts, Town centers and Village centers.
- 27 (a) Buildings should be sited at the front setback line for at least 70 percent
28 of the building frontage in order to define the streetscape, except where
29 larger setbacks from the street represent the prevailing character of the
30 block face.
- 31 (b) Larger setbacks may be provided for street-side patios and small plazas,
32 particularly along the same block face as, or across the street from, a
33 common green.
- 34 (c) Buildings should abut at least one side property line where necessary to
35 form a continuous building frontage, along with providing shared parking
36 or access to parking in the rear.



1
2 **Figure 62.6.2.a.2: BUILDING PLACEMENT FOR PEDESTRIAN-ORIENTED COMMERCIAL**

3 (3) Auto-oriented and shopping center commercial development. Buildings or
4 architectural elements such as arcades should be placed at the front setback line
5 for at least 25 percent of the site frontage in order to improve streetscape
6 definition and screen off-street parking areas. This standard also applies to
7 multiple buildings developed on a site.

8 b. *Storefront Design.* Storefronts provide visual interaction between interior activities and the
9 exterior streetscape. The following standards reflect the difference in scale between
10 pedestrian and auto-oriented uses.

11 (1) Pedestrian-oriented commercial development within Development Districts, Town
12 Centers and Village Centers and Mixed Use.

13 (a) Storefront facades and entries should orient to the street, plazas, common
14 greens, and other public pedestrian areas, not interior blocks or parking
15 lots.

16 (b) Storefront facades should be varied and articulated to provide visual
17 interest and pedestrian comfort, and include such elements as front bays
18 and porches, awnings, frequent entries, and large display windows.

19 (c) Storefront windows shall be large, single or multi-paned openings,
20 providing either views into building work areas or lobbies, or displays of
21 merchandise or artwork.

22 (d) Inactive building elevations, such as completely blank walls or loading
23 areas, are prohibited on primary street frontages.

24 (2) Auto-oriented and shopping center commercial.

25 (a) Ground floor facades facing public roads must have arcades, display
26 windows, or windows offering views into buildings, entryways, awnings,
27 or other features.

28 (b) Multiple buildings forming a complex shall have a commonality of
29 materials and style, uniform signage, and elements that provide a strong
30 identifying image.

31 3. **Connectivity.** In pedestrian-oriented growth areas, such as the village and town centers and
32 downtown centers within development districts, connectivity is an important design consideration.
33 An interconnected street system is essential in growth areas to support and enhance a pedestrian-
34 oriented environment.

35 a. A grid system of streets that exists in village and town centers and in development districts
36 should be maintained and reinforced by additional street, and pedestrian connections,
37 where possible.

-
- 1 b. Pedestrian connections to common greens, transit stops, building entrances, and parking
2 areas should be incorporated into site plans for new development, where possible.
- 3 c. Transit stop facilities should be integrated with new buildings and parking lot designs,
4 where possible, to provide year-round weather protection for pedestrians and transit users.
- 5 4. ***Parking, Loading, and Service Facilities.*** While provision of adequate on-site service facilities,
6 such as parking and internal circulation and service yards is important, these facilities should be
7 designed to protect adjacent properties and the public. In addition to the off-street parking and
8 loading provisions of Chapter 64 of this Ordinance, the following design standards for parking,
9 loading and service facilities apply:
- 10 a. Off-street loading areas should not be visible from a public street. Where no alternative
11 exists, loading areas shall be screened from view.
- 12 b. Off-street loading areas shall be located at least 50 feet from adjacent residential areas.
13 Where possible, service yards should be used to incorporate loading, storage, garbage, and
14 utility equipment areas. Service yards shall not be located adjacent to residential areas,
15 unless separated by a type “C” buffer.
- 16 c. Outdoor storage areas, where approved, shall be screened from view from public streets.
17 Chain link fencing is not acceptable screening for outdoor storage areas visible from a
18 public street unless buffer landscaping also is provided.

19 **62.7. Design Standards for Industrial and Business Park Development.**

20 The following design standards apply to all industrial and business park development. These design
21 standards are intended to ensure the compatibility of new industrial buildings and additions within existing
22 commercial mixed use and industrial areas. Limited industrial buildings provide space for moderate- to low-
23 intensity industrial and office uses suitable for location adjacent to residential and commercial areas. By
24 contrast, general industrial buildings and outdoor facilities of heavy intensity industrial activities need to be
25 buffered where located adjacent to residential and commercial areas to avoid adverse impacts.
26 Based on this distinction, the following standards for industrial buildings and additions provide elements of
27 design related to building form, street presence, and parking, loading, and service facilities. Standards for
28 general industrial buildings and additions relate to the design of parking, loading, and service facilities.

- 29 1. ***Industrial Buildings.*** All manufacturing uses shall be buffered in accordance with Schedule 63.3.a.
30 All buildings shall meet the requirements of Maryland and/or national fire codes for fire resistivity
31 and any building, plumbing, and other applicable codes for St. Mary's County and the state, then in
32 effect or thereafter enacted or amended.
- 33 a. ***Height.*** New industrial buildings and additions should not result in heights that overwhelm
34 the scale of existing buildings in adjacent zoning districts. The maximum height limits in
35 Industrial districts, specified in Schedule 32.1 of the Ordinance, are subject to the following
36 design standards:
- 37 (1) Where multi-story industrial and business park development abuts single-family
38 residential neighborhoods, an upper-story setback shall be provided at a rate of at
39 least one foot for every one foot of additional height above ten (10) feet.

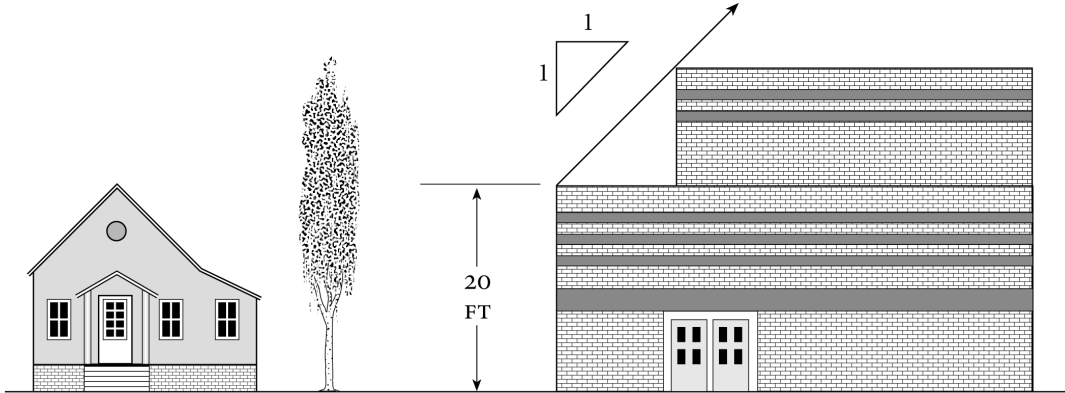


Figure 62.7.1: UPPER STORY SETBACK ADJACENT TO SINGLE FAMILY RESIDENTIAL

2. **Street Presence.** Building materials and details significantly affect the visual impact an industrial building will have on the street or road. Design standards for these elements are as follows.
 - a. **Building Materials and Details.** Materials and details applied to new light industrial buildings and additions generally should reflect those of the existing buildings in the area.
3. **Parking, Loading, and Service Facilities.** While the provision of adequate on-site service facilities such as parking and internal circulation and service yards is important, these facilities should be designed to protect adjacent properties and the public.
 - a. **Parking and Loading Facilities.** A parking lot should allow customers, employees and delivery vehicles to easily access, circulate, and exit easily on the site. Adequate loading facilities should be provided, but should not adversely affect adjacent properties. In addition to the off-street parking and loading provisions of Chapter 64 of this Ordinance, the following design standards for parking and service facilities apply in industrial and business park areas:
 - (1) Loading docks shall be located at least 100 feet from adjacent residential areas, unless fully enclosed, in which case they may be located within 50 feet of adjacent residential areas.

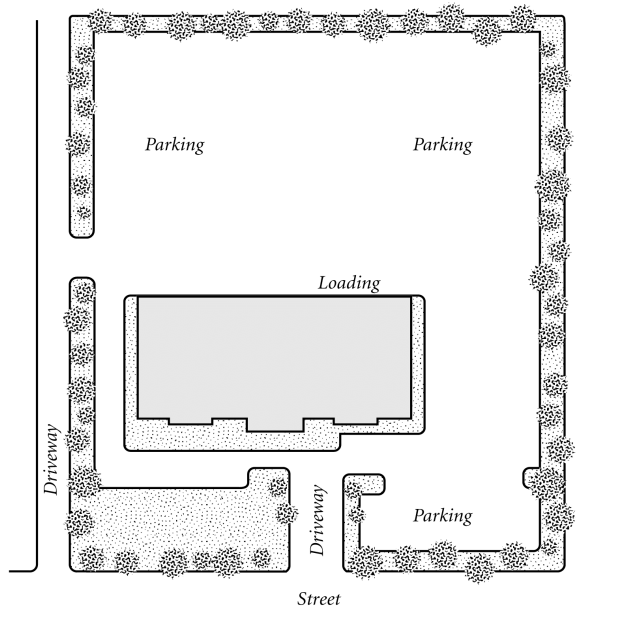
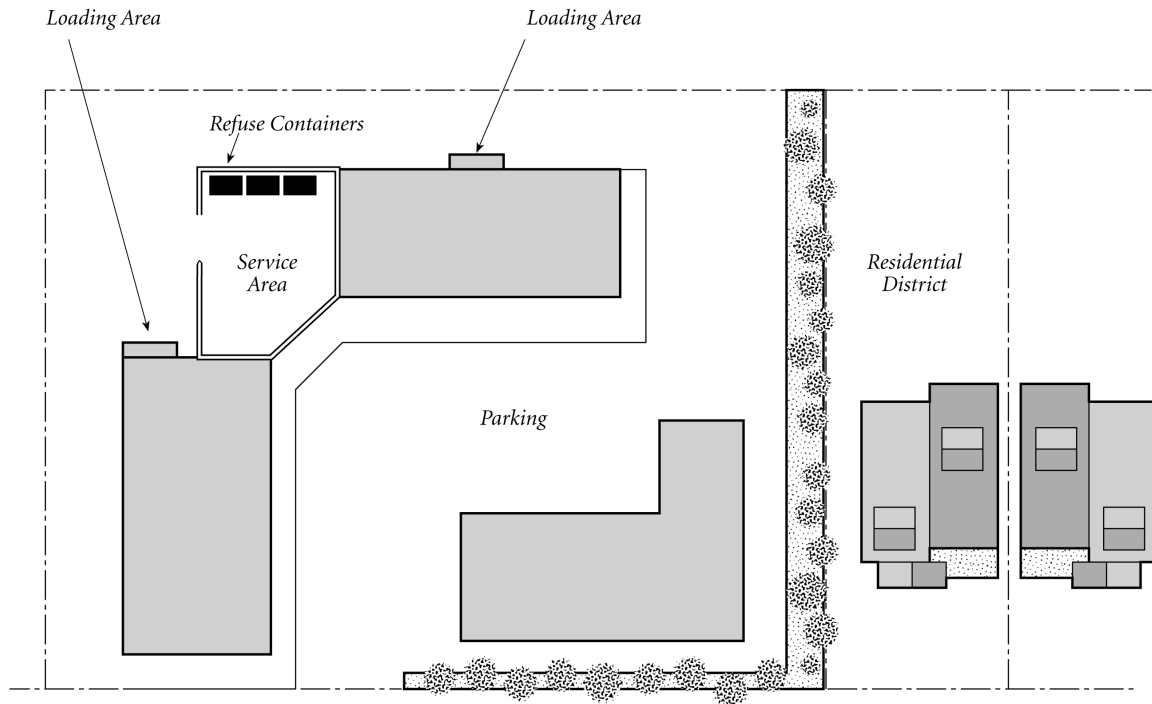


Figure 62.7.3.a: PARKING AND LOADING FOR INDUSTRIAL

- 1 (2) Loading areas and vehicle access doors should not be visible from a public street
2 or road, or from adjacent residential areas. Where no alternative exists, loading
3 areas shall be screened from view.
- 4 b. *Service Facilities.* Storage, garbage, and utility equipment areas are important service
5 elements of industrial development. In addition to the general site standards provisions of
6 Chapter 60 of this Ordinance, the following design standards for service facilities shall
7 apply in industrial and business parks.
- 8 (1) Service facilities should not be visible from a public street or road. Where no
9 alternative exists, service facilities shall be screened from view.
- 10 (2) Outdoor storage areas, where approved, shall be located on the rear half of the site
11 or permanently screened from view. Chain-link fencing is not acceptable
12 screening for outdoor storage areas visible from a public street unless buffer
13 landscaping also is provided.
- 14 (3) Service yards should be used to incorporate loading; equipment and materials
15 storage; hazardous materials storage; garbage; and utility equipment areas, where
16 possible. Service yards shall not be located within 100 feet of adjacent residential
17 areas.
- 18



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Figure 62.7.3.b: Service Facilities for Industrial

21 **62.8. Development in Scenic Corridors.**

22 This section establishes supplemental design standards and requirements for major subdivisions and multi-
23 family residential, commercial, and industrial development along designated scenic roadways.

- 24 1. *Scenic Corridors Established.* The following scenic corridors are established.
- 25 a. St. Andrews Church Road and Patuxent Beach Road (MD Route 4).
- 26 b. Point Lookout Road (MD Route 5).
- 27 c. New Market Turner Road (MD Route 6).
- 28 d. Budds Creek Road (MD Route 234).

-
- 1 e. Mattapany Road.
- 2 f. Easterly side of Three Notch Road (MD Route 5) from the intersection of Old Village Road
3 and Three Notch Road (MD Route 5) to the northern junction of Three Notch Road (MD
4 Route 5/MD Route 235) and Point Lookout Road (MD Route 5).
- 5 g. Both sides of Three Notch Road (MD Route 235) from the northern junction of Three
6 Notch Road (MD Route 5/MD Route 235) and Point Lookout Road (MD Route 5) to the
7 northern boundary of the Hollywood Town Center.
- 8 2. **Design Standards.** The following standards apply to all subdivisions, and development requiring
9 site plan review along scenic corridors.
- 10 a. Disturbance of existing roadway features should be minimized. Exceptions may be granted
11 to maintain sight distances at driveways and intersections; improve traffic capacity as
12 necessary to eliminate safety hazards; post warnings or remove traffic hazards; repair or
13 replace roadway surfaces, bridges, or culverts; provide adequate drainage; or repair or
14 replace utilities.
- 15 b. Removal of existing prominent tree stands, woodlands, outcroppings, and historic
16 landscapes, such as pastures and meadows visible from the designated scenic corridors
17 should be avoided. If removal of such features is unavoidable, applicants shall propose
18 replacement planting, buffering or screening as appropriate to maintain and enhance the
19 scenic character of the disturbed area.
- 20 c. Prevailing front building setbacks on adjacent lots that are within the same zoning district
21 should be maintained.
- 22 d. Parking areas should be screened from view from the scenic corridors using either a four-
23 foot tall berm planted with a Type A buffer OR a Type B buffer, as defined in Schedule
24 63.3.a except where driveway visibility must be provided.
- 25 3. **Field Surveys.** The Planning Director may require that applicants for development within
26 designated scenic corridors provide field surveys and documentation of scenic and historic roadside
27 features in sufficient detail to allow evaluation of the disturbed areas on site plans and of the
28 measures proposed to mitigate potential adverse impacts on scenic resources.
- 29 4. **Referral of Site Plans to Planning Commission.** If the Planning Director determines that a
30 development proposal within a designated scenic corridor would have a significant adverse impact
31 on the scenic character of that corridor, he may refer the site plan to the Planning Commission for
32 review and approval, accompanied by a written report documenting the potential adverse impacts
33 and recommending conditions of approval.
- 34 5. **Conditions of Approval.** To maintain and enhance scenic character along these designated
35 roadways, the Planning Commission may impose reasonable conditions of project approval, as
36 necessary to minimize adverse impacts on scenic resources. These conditions may include, but are
37 not limited to, limitations on size, bulk, and location of visible buildings and standards for
38 landscaping, buffering and lighting.
- 39 6. **Limitations on Conditions of Approval.** No reduction is allowed in the number of allowable
40 dwelling units or the total square feet of non-residential building space permitted by the FAR
41 standard for the district where the project would be located.

1 **CHAPTER 63 LANDSCAPING AND BUFFER YARDS**

2 Sections:

- 3 63.1 Specific Purposes.
- 4 63.2 Landscaping.
- 5 63.3 Buffer Yards.

6 **63.1. Specific Purposes.**

7 The specific purposes of the landscape and buffer yard regulations in this chapter are to:

- 8 1. Promote attractive development and preserve the appearance and character of the surrounding area
- 9 through the use of landscaping; and
- 10 2. Eliminate or minimize conflicts between potentially incompatible, but otherwise permitted uses, on
- 11 adjoining lots through buffering, which may include a combination of setbacks and visual buffers or
- 12 barriers.

13 **63.2. Landscaping.**

14 1. **Applicability of Landscape Standards.** The landscaping standards of this chapter shall apply to all

15 uses except single family detached homes on individual lots of record, for which minimum

16 landscaping is required by Schedule 32.1, or by an approved Planned Unit Development Plan.

17 2. **General Requirements.** A landscaping plan shall be submitted in conjunction with other materials

18 required for site plan applications, as provided in Chapter 60, or with an application for a

19 conditional use permit or variance permit.

- 20 a. Landscaping in buffer yards may be applied to overall landscaping requirements.
- 21 b. Evidence of completion of required landscaping shall be supplied to the Planning Director
- 22 prior to issuance of an occupancy permit.

23 3. **Required Components of Landscape Plans.** All landscape plans shall include the following:

- 24 a. A site plan, drawn to scale, equal to standard architectural or engineering quality, indicating
- 25 the following:
 - 26 (1) All proposed plant materials clearly labeled and drawn to size at maturity.
 - 27 (2) Location of lot and street lighting.
 - 28 (3) Adjacent land uses.
 - 29 (4) A north arrow and scale.
 - 30 (5) A plant list indicating common names, scientific names and varieties, quantities,
 - 31 planting sizes and types; and plant spacing for hedges and screens for all plant
 - 32 materials proposed.
 - 33 (6) A description of the proposed method of protecting existing trees during
 - 34 construction.

35 4. **Design.** Landscape plans shall be harmonious with the site layout and architectural design and

36 demonstrate a recognizable pattern or theme for the overall development by choice and location of

37 materials. The overall landscape plan shall be integrated with all elements of the project, such as

38 buildings, parking lots, and streets.

- 39 a. A minimum of one shade tree per 40 feet of street frontage shall be provided.
- 40 b. Landscape materials shall not be located such that, at maturity:
 - 41 (1) They interfere with safe sight distances for vehicular, bicycle, or pedestrian traffic;
 - 42 (2) They conflict with overhead or underground utility lines, overhead lights, or
 - 43 walkway lights; or
 - 44 (3) They block pedestrian or bicycle ways.

- 1 c. The use of crushed rock or gravel for large area coverage shall be avoided (except for
2 walks and equestrian paths), and areas covered with non-plant materials such as concrete,
3 bark or gravel shall not exceed 20 percent of the total landscaped area.
- 4 d. No plant materials with mature height greater than 36 inches shall be planted within the
5 triangle formed by measuring 30 feet back from the intersection point along two
6 intersecting roadways or within 15 feet of a curb cut.
- 7 5. **Plant and Non-plant Materials.** To accomplish the purposes of this section, plant and non-plant
8 materials used in landscape plans shall conform to the following:
- 9 a. Any tree species that has been demonstrated to be short-lived and highly susceptible to
10 damage from wind, ice and snow damage may be excluded from counting toward
11 landscape planting required by this section.
- 12 b. The percentage of trees of any one species shall not exceed the following:

Schedule 63.2.a: Species Variety

Number of Trees	Maximum Percentage of Any One Tree Species
10-19	50%
20-29	33%
More than 40	25%

- 16 c. Existing healthy trees shall be preserved within and integrated into required landscaping
17 areas and protected during construction as required by Chapter 75, Forest Conservation.
- 18 d. Plant materials shall be designed for: energy efficiency and drought tolerance; adaptability
19 and relationship to environment; habitat value; color, form and pattern; ability to provide
20 shade; soil retention; fire resistance, etc. and must meet American Association of
21 Nurserymen specifications for No. 1 grade.
- 22 e. All plant materials used must be balled and burlapped or container grown unless
23 specifically approved as part of the landscaping plan.
- 24 f. Plant materials shall be sized and spaced to achieve immediate effect and shall meet the
25 following size minimums.

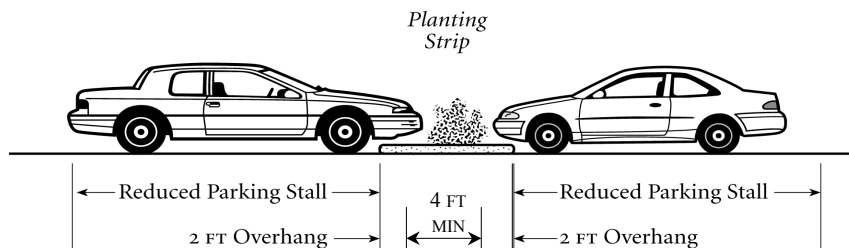
Schedule 63.2.b: Size of Plant Material

Plant Type	Minimum Size
Canopy trees	1 1/2 to 2-inch caliper/10 feet
Understory trees	1 1/2 to 2-inch caliper/6 feet
Ornamental trees	1 1/2 to 2-inch caliper/8 feet
Coniferous trees	5 feet
Shrubs	5 gallon
Vines and ground cover	1 gallon or flats

*If caliper and height do not correspond for the species selected, select trees meeting the height requirement.

- 28 g. Shrub and planting beds, and other areas without pavement or turf, shall be top dressed
29 with a bark chip mulch or approved alternative.
- 30 h. Where shrubs or low-level vegetation are used, vegetative matter at maturity shall cover at
31 least 75 percent of actual planted area.
- 32
33

- 1 i. Areas of artificial trees, shrubs, turf, or flowers may not be counted toward the landscape
2 area and are not allowed unless specifically approved as part of the landscaping plan.
- 3 j. Bioretention facilities that are not fenced may contribute toward landscaping or buffer yard
4 requirements.
- 5 k. Maintenance. The developer, his successor, or the owner shall be responsible for proper
6 maintenance of the landscape. As used in this section, "maintenance" includes: watering;
7 fertilizing; litter removal; weeding; pruning; trimming; insect, disease, rodent, and weed
8 control; and replacement of plant materials as needed to preserve the health and appearance
9 of the plantings. Plant materials showing signs of insect or disease infestation or other
10 damage shall be appropriately treated and dead plant material removed and replaced. A
11 note shall be placed on all site plans stating the above requirement.
- 12 6. Landscaping Requirements for Parking Facilities:
- 13 a. Parking facilities with more than 10 spaces shall comply with the following landscaping
14 standards:
- 15 b. Parking facilities shall have a perimeter planting area at least eight feet wide along three
16 sides of the parking facility, excluding the building entryway.
- 17 c. Parking facilities shall include permanent interior planting, the total area of which shall be
18 at least 10 percent of the net area of the parking facility. Net area shall not include required
19 street setbacks or access driveways or walkways within such setbacks. Interior planting
20 areas shall be distributed throughout the parking lot and shall be subject to the following
21 conditions:
- 22 (1) Landscaping shall be contained in planting beds, the minimum area of which shall
23 be 25 square feet.
- 24 (2) Where landscaped areas are provided, they shall be a minimum of eight feet in
25 width.
- 26 (3) The end of each row of parking stalls shall be separated from driveways by a
27 landscape planter, sidewalk, or other means.
- 28 (4) A minimum of one tree for every 10 spaces shall be distributed within the parking
29 lot.
- 30 (5) Where autos will extend over landscaping, the required planting areas shall be
31 increased two feet in depth by decreasing the length of the parking stall by two
32 feet. Where autos will overhang into both sides of an interior landscaped strip or
33 well, the minimum curb-to-curb dimension shall be eight feet; and
- 34 (6) Where upper levels of multilevel parking structures are visible from public streets,
35 pedestrian pathways, or adjacent buildings, planting boxes shall be provided.
- 36 7. Innovative landscaping or stormwater management, (bioretention, etc.) may be provided in
37 exchange for a 25 percent reduction of landscape requirements at the discretion of the Planning
38 Director.



39
40 **Figure 63.2.6.c.5: OVERHANG ALLOWANCE, REDUCED PARKING STALLS**
41

1 **63.3. Buffer Yards.**

- 2 1. **Applicability of Buffer Yard Standards.** The buffer yard standards of this chapter shall apply to:
- 3 a. All new development on vacant land.
- 4 b. Except in the DMX, redevelopment or expansion of existing site development by more
- 5 than 50 percent, not including single-family detached residences or the addition of
- 6 accessory uses or structures.
- 7 c. Addition or expansion of an existing building by more than 5,000 square feet except as
- 8 otherwise exempted by paragraph b above.
- 9 d. Except in the DMX, any change in use that increases development intensity and results in
- 10 increased traffic, noise, water or air pollution, etc. For the purposes of this chapter, a
- 11 change in use shall include from a residential use to a commercial use; commercial uses to
- 12 an industrial use; and, in some cases from an industrial use to a commercial use.
- 13 2. **Buffer Yards Required.** Buffer yards are required to minimize conflicts between potentially
- 14 incompatible but otherwise permitted uses on adjoining lots and to implement other purposes of this
- 15 Ordinance.
- 16 3. **Location.** Required buffer yards shall be developed along the perimeter of the proposed
- 17 development site extending inward from the property line of the development site. Buffer yards
- 18 shall not be located within any dedicated public or private right-of-way.
- 19 a. Bioretention facilities may contribute toward landscaping or buffer yard requirements if
- 20 they are not fenced.
- 21 4. **Buffer Yard Standards.** Schedule 63.3.a. and its illustration describe the minimum requirements
- 22 and spacing for each buffer yard required.
- 23 a. Notwithstanding the foregoing, all buffer yard requirements for any property in the “DMX”
- 24 zone shall be an “A” buffer yard.
- 25 b. Where the buffer yard would include a utility easement in which no trees may be planted
- 26 and where the buffer yard requires the planting of trees, required buffer yard widths shall
- 27 be increased by the width of the utility easement.
- 28 c. On any portion of the development site where this section would require two types of
- 29 buffer yard, the greater buffer yard shall be required.
- 30 (1) Canopy trees shall mean deciduous or evergreen trees that are capable of reaching
- 31 at least 25 feet in height or spread at maturity and that are not less than ten feet
- 32 high and 1.5-inch caliper at time of planting.
- 33 (2) Ornamental trees shall mean deciduous or evergreen trees capable of growing up
- 34 to 25 feet in height at maturity and are not less than eight feet high and 1.5-inch
- 35 caliper at time of planting.
- 36 (3) Shrubs shall be not less than two feet high and five-gallon size at time of planting.
- 37 The Planning Director may approve a one-gallon size for fast-growing shrubs.
- 38 (4) Groundcover consistent with the landscape requirements of Section 63.2.5 or turf
- 39 grass shall cover the balance of the buffer yard.
- 40 (5) Buffer yard plantings conforming to this section may count towards landscaping
- 41 requirements.

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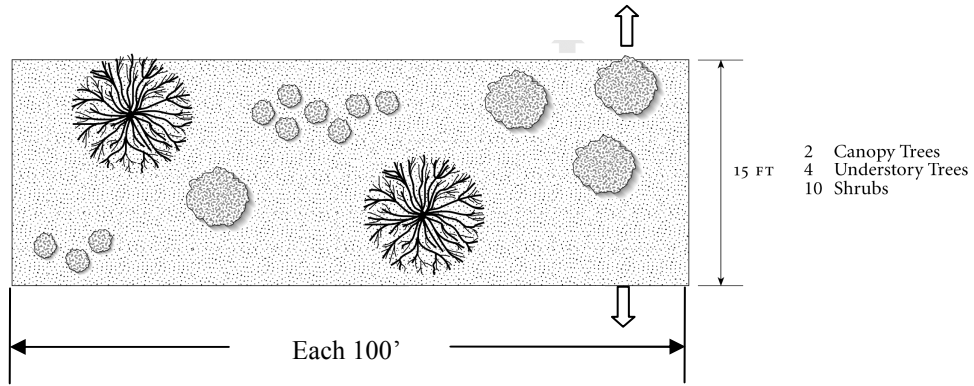
Schedule 63.3.a: Buffer Yard Standards (See illustration on facing page)

	Buffer Yard Types		
	A	B	C
Buffer yard minimum width ³	15 feet	65 feet ¹	30 feet ²
Canopy trees (per 100 lineal feet)	2	4	5
Under story trees (per 100 lineal feet)	4	5	7
Evergreen trees and shrubs-min. 4' tall (per 100 lineal feet)	-	11	14
Shrubs (per 100 lineal feet)	10	22	27
Berm height	-	- ¹	6 feet ^{2,3}
Fence ⁴	-	- ¹	6 feet ^{2,3,4}

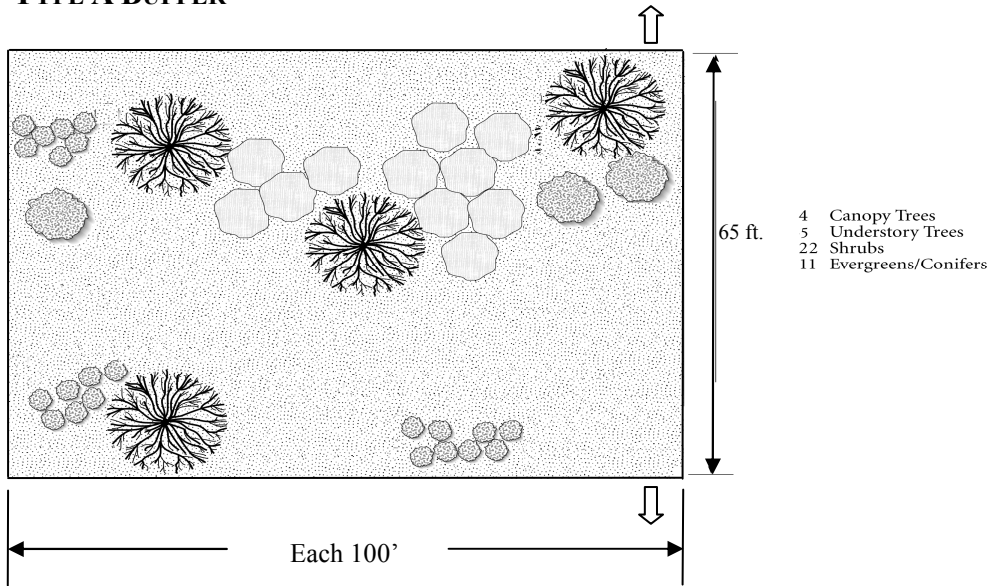
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1. No fences are required as part of buffer yards A and B.
2. Except when a fence or berm is specifically required per the standards of Chapter 51, projects may be exempted from the requirement to provide a fence or berm when the buffer of at least 35 feet in width is maintained in undisturbed existing forest cover.
3. Unless both a fence and a berm are required per Article 5, Regulation of Uses, the berm may be replaced by a 6-foot tall fence or a 6-foot tall masonry wall located at the side of the buffer having the higher intensity use.
4. A fence of a different specified height may be required per Article 5, Regulation of Uses.
5. In the DMX zone, all buffer requirements shall be satisfied by an "A" buffer.

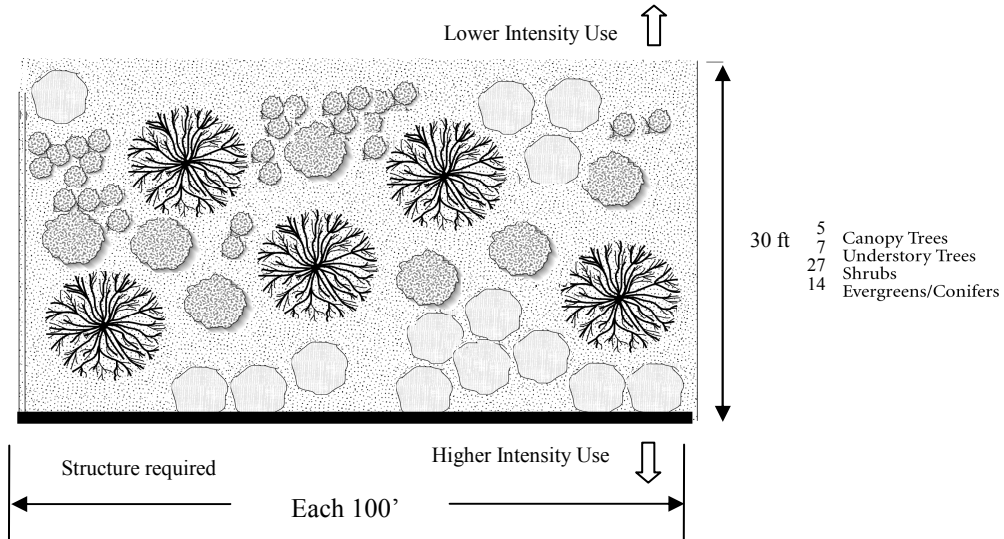
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TYPE A BUFFER



TYPE B BUFFER



TYPE C BUFFER

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5. **Use Intensity and Determination of Required Buffer Yards.** Intensity of designated use classifications shall be used to determine the buffer yard requirements between adjoining uses. Type L uses are low-intensity uses. Type H uses are high-intensity uses. Schedule 50.4 identifies the required buffer yards based on these classifications and the adjoining use group. Uses not shown require no buffer yards.
6. **Adjoining Vacant Lots – Same Zoning District.** Where the proposed use adjoins vacant lots in the same zoning district, the following rules shall apply. In each case, the latter use to develop shall provide the balance of the required buffer yard. Should contiguous lots in common ownership be proposed for development, buffer yards shall be provided for adjoining uses as those uses are shown on the required concept site plan. If the proposed use(s) change from that shown on an approved concept plan, a buffer yard shall be as required for the new use(s) at the time they are proposed.
- a. In all rural districts, the proposed use shall provide one-half of the buffer yard as if the adjoining vacant lot was occupied by an agricultural use.
 - b. In RL, VMX, and RMX districts, the proposed use shall provide one-half of the buffer yard as if the adjoining vacant lot was occupied by a low-intensity residential use.
 - c. In RH, and TMX districts, the proposed use shall provide one-half of the buffer yard as if the adjoining vacant lot was occupied by a high-intensity residential use.
 - d. In CC, and CMX, districts, the proposed use shall provide one-half of the buffer yard as if the adjoining vacant lot was occupied by a high-intensity commercial use.
 - e. In the DMX district, the proposed use shall provide one-half of a type “A” buffer yard.
 - f. In OBP and I districts, the proposed use shall provide one-half of the buffer yards as if the adjoining vacant lot was occupied by a high-intensity office or industrial use..
 - g. Required buffer yards in PUD districts shall be established as part of the approval of the required PUD plan.
7. **Adjoining Vacant Lots – Different Zoning District.** The following rules shall apply where a proposed use abuts vacant lots in a different zoning district. Should contiguous lots in common ownership be proposed for development, buffer yards shall be provided for adjoining uses as those uses are shown on the required concept site plan. If the proposed use(s) change from that shown on an approved concept plan, a buffer yard shall be as required for the new use(s) at the time they are proposed.
- a. In a rural district, when a proposed use for which a buffer yard is required adjoins a vacant site, that use shall provide 100 percent of the buffer required by Schedule 63.3.b.
 - b. When a proposed use for which a buffer yard is required adjoins a vacant site in different zoning district that is not a rural district:
 - (1) That use shall provide 50 percent of the buffer required by Schedule 63.3.b for a high or intensity future, adjacent use; and
 - (2) The adjoining use (the “second use”) shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total buffer yard required between those two uses. In cases where the adjoining use is initially developed without providing a buffer yard, the second use shall be responsible for installation of the total buffer yard required by Schedule 63.3.b.
 - c. Existing trees and other plant material and/or land may contribute to the total buffer yard required by Schedule 63.3.b. Where existing trees and forest are preserved, any berm requirement shall be waived.

1 **Schedule 63.3.b: BUFFER YARD REQUIREMENTS**

Legend	--		No Buffer Required												
	A, B, C		Buffer Yard Standard												
L,		Low Use Intensity (see Schedule 50.4)													
H		High Use Intensity (see Schedule 50.4)													
ROW		Public Road right-of-way having a Major Collector or higher road classification													
Proposed Use	Adjoining Use														
	Agricultural		Residential		Public and Semipublic		Commercial		Industrial		Transportation, Communication and Utility			Marine	
	L	H	L	H	L	H	L	H	L	H	L	H	ROW	L	H
Agricultural (L)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Agricultural (H)	A	—	C	C	B	B	A	—	A	—	—	—	A	A	—
Residential (L)	A	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Residential (H)	B	A	B	—	—	—	—	—	—	—	—	—	A	—	—
Public and Semipublic (L)	A	—	B	A	—	—	—	—	—	—	—	—	—	—	—
Public and Semipublic (H)	A	A	C	C	A	—	—	—	—	—	—	—	B	—	—
Commercial (L)	A	A	B	B	A	A	—	—	—	—	—	—	—	—	—
Commercial (H)	B	A	C	C	C	B	—	—	—	—	A	A	B	A	A
Industrial (L)	A	—	B	B	A	A	A	—	—	—	—	A	—	—	—
Industrial (H)	B	A	C	C	B	C	B	B	A	—	A	—	—	A	A
Transportation, Communication, and Utility (L)	—	—	B	B	A	A	A	A	—	—	—	—	—	—	—
Transportation, Communication, and Utility (H)	B	—	C	C	B	B	B	B	—	—	—	—	B	C	B
Marine (L)	—	—	B	B	A	A	A	A	—	—	—	—	—	—	—
Marine (H)	A	—	C	C	B	B	B	B	—	—	—	—	B	—	—
Accessory Use (L)	—	—	A	—	—	—	—	—	—	—	—	—	—	—	—
Accessory Use (H)	—	—	B	A	B	—	—	—	—	—	—	—	—	—	—

2

1 **CHAPTER 64 OFF-STREET PARKING AND LOADING**

2 Sections:

- 3 64.1 Specific Purposes.
- 4 64.2 Basic Requirements for Off-Street Parking and Loading.
- 5 64.3 Off-Street Parking and Loading Spaces Required and Permitted.
- 6 64.4 Specific Requirements for the RSC and DMX Zones.
- 7 64.5 Shared Parking Facilities.
- 8 64.6 Parking Spaces for the Disabled.
- 9 64.7 Off-Street Automobile Parking Dimensions and Design.
- 10 64.8 Off-Street Bicycle Parking.
- 11 64.9 Off-Street Loading Dimensions and Design.
- 12 64.10 Parking Lot and Structure Design.

13 **64.1. Specific Purposes.**

14 The specific purposes of the off-street parking and loading regulations are to:

- 15 1. Ensure that off-street parking and loading facilities are provided for new land uses and for
16 alterations and enlargements of existing uses in proportion to the need for such facilities created by
17 each use, consistent with this Ordinance;
- 18 2. Establish parking standards for commercial uses consistent with the need for and feasibility of
19 providing parking on specific commercial sites; and
- 20 3. Ensure that off-street parking and loading facilities are designed in a manner that will ensure
21 efficiency, protect the public safety, and, where appropriate, insulate surrounding land uses from
22 adverse impacts.

23 **64.2. Basic Requirements for Off-Street Parking and Loading.**

- 24 1. **When Required.** Parking area layout and landscape plans shall be reviewed at the time of site plan
25 review, in accord with Chapter 60. At the time of initial occupancy of a site, construction of a
26 structure, or alteration or enlargement of a site or structure, off-street parking facilities and off-street
27 loading facilities shall be provided in accordance with the regulations prescribed in this chapter. For
28 the purposes of these requirements, major alteration or enlargement shall mean a change of use type
29 or an addition that would increase the number of parking spaces or loading berths required by this
30 Ordinance 20 percent or more of the total number required by this Ordinance before the alteration or
31 enlargement. A change in occupancy is not a change in use unless the new occupant is in a different
32 use type than the former occupant (e.g., transition from a business services use type to a retail sales
33 type).
- 34 2. **Spaces Required for Multiple Uses.** If more than one use is located on a site, the number of off-
35 street parking spaces and loading berths to be provided shall be equal to the sum of the requirements
36 prescribed for each use. If the gross floor area of individual uses on the same site is less than that
37 for which a loading berth would be required by Schedule 64.3.2, but the aggregate gross floor area
38 of all uses is greater than the minimum for which loading berths would be required, the aggregate
39 gross floor area shall be used in determining the required number of loading berths.
- 40 3. **Joint Use.** Off-street parking required by this chapter for any use shall not be considered as
41 providing parking spaces for any other use except as set forth at Section 64.5, Shared Parking
42 Facilities.
- 43 4. **Location and Ownership.**
 - 44 a. Parking required to serve a residential use shall be on the same site as the residence.

-
- 1 b. Parking required to serve a non-residential use shall be on the same lot as the use served
2 except that:
- 3 (1) Off-site parking within 500 feet (measured from the near corner of the parking
4 facility to the main public entrance) may be used to meet the parking requirement
5 if:
- 6 (a) It is located in a publicly owned lot; or
7 (b) It is located on a public street designated as a minor collector or lower; or
8 (c) It is located on a separate lot than the use served and if a written
9 agreement between the property owners for such use is recorded among
10 the Land Records of St. Mary's County, Maryland, concurrently with site
11 plan approval.
- 12 c. At least 50 percent of the parking required for a multi-family dwelling and for non-
13 residential development shall be further from the front property line than the front facade of
14 the building(s) or the parking shall be screened from view from adjacent public roads,
15 except as necessary to provide for safe motor vehicle entry and exit from the site onto or
16 off of a public road. If a property fronts on an arterial street, the front yard may be used for
17 parking, provided:
- 18 (1) It is screened from view from the public road by landscaping, a fence, a berm, or a
19 combination that will provide adequate screening.
- 20 (2) A Type A buffer yard is installed between the parking area and the front property
21 line.
- 22 5. **Life of Facility.** No use shall be continued if the off-site parking is removed unless substitute
23 parking facilities are provided.
- 24 6. **Common Loading Facilities.** The off-street loading facilities requirements of this chapter may be
25 satisfied by the allocation of the prescribed number of berths for each use in a common truck
26 loading facility, provided that the total number of berths shall not be less than the sum of the
27 individual requirements.
- 28 7. **Construction of Spaces Required.** The Planning Director may allow construction of a portion of
29 the required parking improvements for non-residential uses to be deferred upon finding that all of
30 the spaces are not immediately needed. The applicant shall submit assurances or guarantees as
31 required by the Planning Director to ensure that such improvements will be constructed when and as
32 they are needed, as determined at the sole and absolute discretion of the Planning Director.
- 33 **64.3. Off-Street Parking and Loading Spaces Required and Permitted.**
- 34 1. Off-street parking and loading spaces shall be provided in accord with Schedules 64.3.1 and 64.3.2.
35 The required number of spaces may be reduced with the approval of the Director. In the schedules,
36 unless a use is specifically noted under the appropriate use type heading, parking requirements shall
37 apply uniformly to all uses within a type.
- 38 2. References to spaces per square foot are to be computed on the basis of gross floor area.
- 39 3. If, in the application of the requirements of this chapter, a fractional number is obtained, one parking
40 space or loading berth shall be required for a fraction of one-half or more and no space or berth shall
41 be required or permitted, except as set forth below, for a fraction less than one-half.
- 42 4. Off-street loading standards are identified in Schedule 64.3.2, which sets space requirements and
43 standards for different groups of use classifications and sizes of buildings and corresponds with
44 group numbers shown in the "Off-street Loading Spaces" column in Schedule 64.3.1. Where no
45 group number is shown in Schedule 64.3.1, no off-street loading is required.
- 46 5. Where the use type is undetermined, the Planning Director shall equate the probable number of
47 parking and loading spaces required based upon similar use types within the common use
48 classification.

- 1 6. In order to discourage excessive vehicle use and provision of unused spaces for vehicle parking, no
 2 use shall provide more than the required number of spaces without justification approved by the
 3 Planning Director. All spaces in excess of the required number shall be at the rate 200 square feet of
 4 parking lot landscaping per additional parking spot.
- 5 7. Projects completed prior to the adoption of this Ordinance shall not be deemed nonconforming if
 6 they exceed the permitted parking or loading spaces set forth in Schedules 64.3.1 and 64.3.2.

Parking Standards and Loading Space Group Reference Schedule 64.3.1

	Off-Street Parking Spaces (sq. Ft. refers to gross square feet) “-“ means off-street parking not regulated by this Chapter	Off-Street Loading Space Group (see Schedule 64.3.2) “-“ means no loading spaced required
Agricultural Use Classifications		
1. Agricultural industry, major.	1 per 1,000 sq. ft.	3
2. Agricultural industry, minor.	1 per 1,000 sq. ft.	1
3. Animal husbandry.	-	1
4. Aquaculture.	1 for each employee	-
5. Crop production and horticulture.	-	-
6. Farmer's market.	2 per 1,000 sq. ft. of outside display area; plus 1 per 250 sq.ft. gross floor area	1
7. Auction house.	2 per 1,000 sq. ft. of building size	2
8. Roadside stand.	2 per 1,000 sq. ft. of outside display area; plus 1 per 250 sq.ft. gross floor area	-
9. Silviculture.	-	-
10. Equestrian Facility, Major.	1 per 4 (paddocks)	-
11. Equestrian Facility, Minor.	1 per 4 (paddocks)	-
8/02/11 12. A. Distillery.	1 per 1,000 sq. ft.	-
12. B. Winery.	1 parking space per 1,000 square feet for the winery operation (1 parking space per five (5) visitors at estimated peak crowd for that part of the winery devoted to incidental retail sales and wine tasting events)	2
12/18/12 12. C. Farm Brewery.	1 parking space per 1,000 square feet for the brewery operation (1 parking space per five (5) visitors at estimated peak crowd for that part of the brewery devoted to incidental retail sales and promotional events)	2
13. Agricultural Tourism	1 per 5 visitors at estimated peak crowd	-
Residential Use Classifications		
14. Dwelling unit attached.	2 per unit	-
15. Dwelling unit, detached.	-	-
16. Dwelling unit, multi-family residence.	1.5 per studio or one bedroom or two spaces per two bedroom or larger unit; plus one guest parking space for every two units	-
17. Group home.	2 plus 1 per 100 sq. ft. used for assembly purposes	-
18. Halfway house.	1 per sleeping room	-
19. Institutional residence.	1 per 4 bedrooms plus 1 per 4/employees	-
20. Mobile home.	2 per unit outside a mobile home park	-
21. Mobile home park or subdivision.	1.5 per mobile home space, to be located anywhere within the mobile home park	-
22. Residential services.	1 per 3 beds; plus 1 for each employee	3
23. Single room occupancy units.	1 per guest room	-

St. Mary's County Comprehensive Zoning Ordinance
Article 6. DEVELOPMENT STANDARDS AND APPROVALS

	Off-Street Parking Spaces (sq. Ft. refers to gross square feet) “-“ means off-street parking not regulated by this Chapter	Off-Street Loading Space Group (see Schedule 64.3.2) “-“ means no loading spaced required
Public and Semipublic Use Classifications		
24. Burial grounds.	1 per employee	-
25. Clubs or lodges.	7 per 1,000 sq. ft. used for assembly purposes	3
26. Cultural institutions.	2 per 1,000 sq. ft. gross floor area, including outdoor displays	3
27. Day care, medical.	1 per 6 children or adults cared for;	2
28. Day care, non-medical.	1 per 6 children or adults cared for; plus 1 per 3 students	2
29. Education facility, college.	5 per 1,000 sq. ft. used for classroom/assembly purposes	1
30. Education facility, school	1 for each employee; plus 1 per classroom for grades K-8 and 10 per classroom for grades 9-12	1
31. Government facility.	3 per 1,000 sq. ft. gross floor area	2
32. Hospital.	3 per 1,000 sq. ft. gross floor area	3
33. Long-term care facility.	3 per 1,000 sq. ft. gross floor area	2
34. Outpatient care center.	4 per 1,000 sq. ft.	2
35. Public recreation facility.	1 per 4 fixed seats, or 2 spaces per acre if no fixed seats as defined on the site plan	3
36. Public maintenance facility.	2 per 1,000 sq. ft., plus 1 per 1,000 sq. ft. of outdoor storage area	1
37. Public safety facility.	4 per 1,000 sq. ft., plus 2 storage spaces	3
38. Religious assembly.	1 per 3 fixed seats, or 20 per 1,000 sq. ft. of seating area if there are no fixed seats	3
39. Rural medical practice	No more than 10 spaces for patrons and employees	-
Commercial Use Classifications		
40. Adult entertainment.	12 per 1,000 sq. ft.	1
41. Animal boarding.	2 per 1,000 sq. ft.	1
42. Animal hospital.	4 per 1,000 sq. ft.	-
43. Animal sales and service.	3 per 1,000 sq. ft.	1
44. Campground and day or boarding camp.	1 per campsite or bed; plus 1 for each employee	-
45. Commercial parking facility.	-	-
46. Conference facility.	1 per 3 persons legal occupancy	3
47. Construction materials and equipment storage.	1 per 1,000 sq. ft. of indoor or outdoor storage area	1
48. Convenience Store	4 per 1,000 sq. ft.	1
49. Corporate campus.	4 per 1,000 sq. ft.	2
50. Fairgrounds and flea markets.	2 per 1,000 sq. ft. of indoor or outdoor storage area	1
51. Financial institution.	5 per 1,000 sq. ft. If a drive through is provided, include queue space for 5 cars per teller	2
52. Funeral and interment service.	1 per 4 seats and 1 per 50 sq. ft. of other area used for assembly purposes	1
53. Golf course.	3 per hole; plus 1 for each employee	1
54. Laboratory.	2 per 1,000 sq. ft.	1
55. Lodging, bed and breakfast inn.	1 per guest room plus 2	1
56. Lodging, hotel and motel.	1 per guest room plus 1 per 2 employees	3
57. Maintenance and repair service, major.	2 per 1,000 sq. ft.; plus 1 per 500 sq. ft. of outdoor storage area	1
58. Maintenance and repair service, minor	2 per 1,000 sq. ft.; plus 2 per 1,000 sq. ft. of outdoor storage area	1

St. Mary's County Comprehensive Zoning Ordinance
Article 6. DEVELOPMENT STANDARDS AND APPROVALS

	Off-Street Parking Spaces (sq. Ft. refers to gross square feet) “-“ means off-street parking not regulated by this Chapter	Off-Street Loading Space Group (see Schedule 64.3.2) “-“ means no loading spaced required
59. Manufactured home sales.	2 per 1,000 sq. ft. gross floor area plus 1 per 2,000 sq. ft. of sales lot area	1
60. Fuel sales.	4 per 1,000 sq. ft. of area included in floor area ratio calculation	1
61. Motor vehicle maintenance service, major.	4 per 1,000 sq. ft.	-
62. Motor vehicle maintenance service, minor.	2 per service bay or 1 per 1,000 sq. ft. whichever is greater, plus queue for 2 cars per wash station	-
63. Office.	4 per 1,000 sq. ft.	2
64. Personal improvement service.	3 per 1,000 sq. ft.	1
65. Personal or business service.	3 per 1,000 sq. ft.	3
66. Personal storage.	1 for each employee at the maximum shift	-
67. Recreational facility, major.	1 per 4 fixed seats or 10 per 1,000 sq. ft. designated viewing area not having fixed seats	2
68. Recreational facility, motor sports facility.	1 per 4 fixed seats and 10 per 1,000 sq. ft. designated viewing area without fixed seats	3
69. Recreational facility, minor indoor.	3 per 1,000 sq. ft.	1
70. Recreational facility, minor outdoor.	1 per 4 fixed seats, or 2 spaces per acre if no fixed seats as defined on the site plan	3
71. Rental and leasing.	3 per 1,000 sq. ft.; plus 1 per 1,000 sq. ft. of outdoor display	3
72. Research and development service.	4 per 1,000 sq. ft.	2
73. Restaurant.	1 per 2 seats	1
74. Restaurant, fast food.	13 per 1,000 sq. ft. gross area; plus queue space for 5 cars for drive-through service	1
75. Retail sales or service, vehicles.	4 per 1,000 sq. ft. of indoor display area; plus 2 per service bay or 1 per 2,000 sq. ft., of service department area, whichever is greater	1
76. Retail sales, general.	5 per 1,000 sq. ft. gross floor area	1
77. Retail sales, limited.	4 per 1,000 sq. ft. gross floor area	1
78. Take-out food and beverage sales.	4 per 1,000 sq. ft.	1
79. Tavern.	12 per 1,000 sq. ft. gross area	1
80. Warehousing and storage.	1 per each 2 employees plus 1 per 1,000 sq. ft.	-
81. Wholesaling and distribution center.	1 per each 2 employees plus 1 per 1,000 sq. ft.	1
Industrial Use Classifications		
82. Extractive industry.	1 per 1,000 sq. ft. within any office structure; plus 1 for each employee	-
83. Production industry, custom.	1 per 1,000 sq. ft.	1
84. Production industry, general	1 per 1,000 sq. ft.	1
85. Production industry, limited.	1 per 1,000 sq. ft.	1
86. Slaughterhouse.	1 per 1,000 sq. ft.	2
87. Wrecking and salvage.	1 per 1,000 sq. ft.; plus 1 for each employee	2
Transportation, Communication and Utility Use Classifications		
88. Airport, landing strip and heliport.	1 per 5 aircraft accommodated; plus 1 per employee; plus two per 250 sq. ft. of terminal area	2
89. Antennae and microwave equipment.	1 per 1,000 sq. ft. gross floor area, minimum 1 per site.	-
90. Communication tower, public safety or other non-commercial.	1 per 1,000 sq. ft. gross floor area, minimum 1 per site.	-
91. Communication tower, commercial.	1 per 1,000 sq. ft. gross floor area, minimum 1 per site.	-

St. Mary's County Comprehensive Zoning Ordinance
Article 6. DEVELOPMENT STANDARDS AND APPROVALS

	Off-Street Parking Spaces (sq. Ft. refers to gross square feet) “-“ means off-street parking not regulated by this Chapter	Off-Street Loading Space Group (see Schedule 64.3.2) “-“ means no loading spaced required
92. Freight terminal.	1 per 1,000 sq. ft. gross floor area	2
93. Passenger terminal.	1 per employee; plus 4 per 1,000 sq. ft. of terminal area	2
94. Regional flood and storm water management facility.	-	-
95. Small Wind Energy System	-	-
96. Solid waste acceptance, processing, transfer and/or resource recovery facility.	1 for each employee, plus 1 drop off space per 3,000 cubic feet of publicly accessible waste receptacles, plus 1 queuing space for each 5 drop off spaces	2
97. Utility, major.	1 for each employee	2
98. Utility, minor.	1 for each employee	-
Marine Use Classifications.		
99. Boatel (multi-level watercraft storage rack building).	1 per 1,000 sq. ft. gross storage area; plus 1 for each employee	2
100. Boatyard.	1 per 10 boat slips or yard area for 10 boats	1
101. Charter fishing facility.	6 spaces per boat	-
102. Commercial dock.	1 per 10 slips; plus 1 for each employee	-
103. Dock, ramp and/or railway, public	1 per boat slip; plus 5 boat trailer parking spaces (15'x40') for any facility designed to provide a ramp for launching trailered boats	-
104. Marina.	1 per 5 slips; plus 5 per 1,000 sq. ft. gross floor area	1
105. Marine services.	1 per 10 slips; plus 1 for each employee	1
106. Marine terminal.	1 per employee plus vehicle area lanes sized to accommodate planned ferry capacity and trip generation	-
107. Seafood industry.	1 per employee per maximum per shift	1
Accessory Use Classifications.		
108. Accessory Apartment.	1 per unit	-
109. Automated teller machine (ATM).	2 for any freestanding facility intended to provide drive up access	-
110. Bus shelter.	-	-
111. Collection receptacles for recyclables materials.	2 drop off spaces (or access to 2 parking spaces) for any facility intended to provide drive up access	-
112. Day Care Family Home	1 per 6 children or adults cared for	-
113. Dock, ramp and/or railway, private.	-	-
114. Dock, ramp and/or railway.	-	-
115. Drive-through services.	-	-
116. Home occupation.	no more than 2 per use, except as required by Chapter 51	-
117. Live entertainment.	-	-
118. On-site workers' housing.	1 per bed	-
119. Accessory general.	-	-
120. Outdoor storage.	-	-
121. Recreational vehicles.	1	-
122. Swimming pool private, non-commercial	-	-
123. Stables.	-	-
124. Charter fishing.	6 spaces per boat	-
Temporary Use Classifications.		
125. Construction trailer/office.	2 per office within the structure	-
126. Sales office/model home.	2 per office within the structure	-
127. Shows and events, indoor.	1 per 5 visitors at estimated peak crowd	-

	Off-Street Parking Spaces (sq. Ft. refers to gross square feet) “-“ means off-street parking not regulated by this Chapter	Off-Street Loading Space Group (see Schedule 64.3.2) “-“ means no loading spaced required
128. Shows and events, outdoor.	1 per 5 visitors at estimated peak crowd	-
129. Temporary residence during construction.	1 per unit	-

1

1 **SCHEDULE 64.3.2: OFF-STREET LOADING SPACES REQUIRED BY GROUP IN**
2 **SCHEDULE 64.3.1**

Gross Floor Area (sq. ft.)	Number of Spaces Required (10'x20'x10')
Use Classification Group 1	
0 to 3,000	0
3,001 to 15,000	1
15,001 to 50,000	2
50,001 and over	3
Use Classification Group 2	
0 to 10,000	1
10,001 to 20,000	2
20,001 and over	3
Use Classification Group 3	
0 to 30,000	1
30,001 to 100,000	2
100,000 and over	3

3 **64.4. Specific Requirements for the RSC and DMX Zones.**

- 4 1. **RSC District.** Only one parking entrance per 400 feet of public roadway frontage shall be
5 permitted unless there are no other alternatives for providing access to required off-street parking.
6 2. DMX District.
7 a. No parking in front yards is allowed in the DMX district.

8 **64.5. Shared Parking Facilities.**

- 9 1. The Planning Director may approve shared parking facilities that reduce total required off street
10 parking spaces if the following findings are made:
11 a. The spaces to be provided will be available as long as the uses requiring the spaces are in
12 operation; and
13 b. The peak hours of parking demand from all uses sharing the facilities do not coincide; and
14 c. Convenient access is provided from the shared facility to all uses served.
15 2. A joint use facility shall contain not less than the total number of spaces or berths as determined
16 individually, subject to the provisions of subsection 3 above. Fewer dedicated spaces may be
17 permitted where adjoining uses on the same site have different hours of operation and the same
18 parking spaces or loading berths can serve both without conflict. A determination of the extent, if
19 any, to which joint use will achieve the purposes of this chapter, shall be made by the Planning
20 Director, who may require submission of data necessary to reach a decision.
21 3. If shared parking facilities are approved, a written agreement between the landowner(s) and the
22 County, that includes the following items, must be recorded on the site plan or subdivision plat.
23 a. A guarantee that there will be no substantial alteration in the uses that will create a greater
24 demand for parking without provision of additional parking; and
25 b. A guarantee among the landowner(s) for access to and use of adjoining parcels for the
26 shared parking facilities, including convenient access across property lines; and
27

1 c. A provision that the County may require parking facilities in addition to those originally
2 approved upon finding by the Planning Director that adequate parking to serve the use(s)
3 has not been provided.

4 **64.6. Parking Spaces for the Disabled.**

5 All parking facilities shall comply with applicable federal, state, and County requirements for accessibility
6 and usability for those with disabilities. Spaces for those with disabilities may not be reduced in number or
7 size or provided on parking surfaces that may hinder their access to any use.

8 **64.7. Off-Street Automobile Parking Dimensions and Design.**

9 1. **Required Dimensions.** Required parking spaces shall have the minimum dimensions shown below:

10 **Minimum Dimensions for Off-Street Automobile Parking**

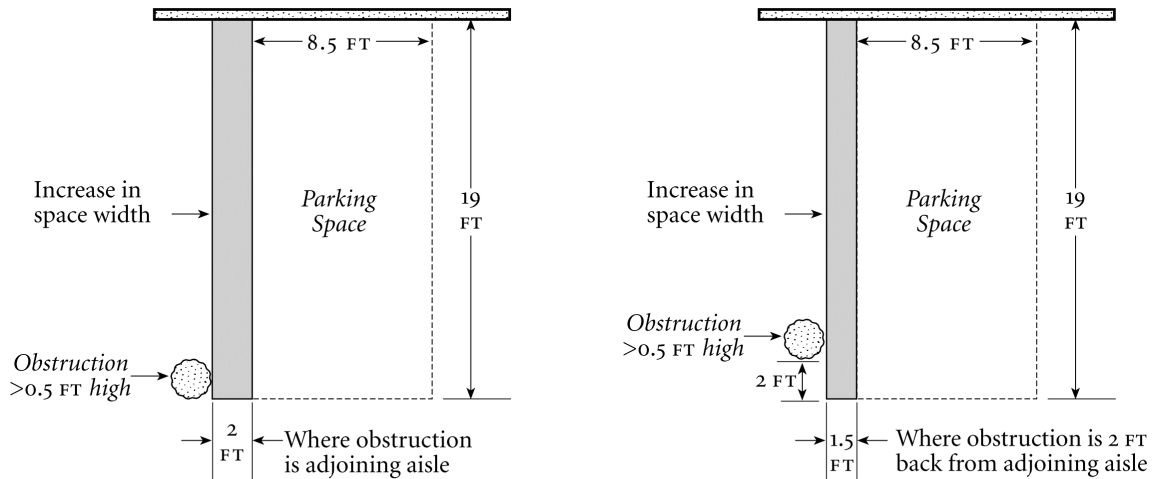
Use	Type of Space	Large Car (ft.)	Small Car (ft.)
Residential	Uncovered	9 x 18	8 x 15
Non-residential	Angle spaces	9 x 18	8 x 15
All	Parallel spaces	8 x 22	8 x 16

11 2. **Proportion of Large Car and Small Car Spaces.** For residential uses, 75 percent of all required
12 parking spaces shall be large car spaces. For non-residential uses, up to 35 percent of the required
13 spaces may be small-car spaces and such spaces shall be clearly marked.

14 3. **Relation to Aisles in Parking Structures.** The relationship between parking spaces and aisles in
15 parking structures shall meet the following requirements:

16 a. To provide adequate access to parking vehicles, each parking space adjoining a wall,
17 column, or other obstruction higher than 0.5 feet shall be increased by 2 feet on each
18 obstructed side, provided that the increase may be reduced by 0.25 feet for each 1 foot of
19 unobstructed distance from the edge of a required aisle, measured parallel to the depth of
20 the parking spaces. See Figure 64.7.3.

21 b. At the end of a parking bay, an aisle providing access to a parking space perpendicular to
22 the aisle shall extend 2 feet beyond the required width of the parking space.



23 **Figure 64.7.3: PARKING SPACES ADJOINING AN OBSTRUCTION**

24

25

- 1 4. **Vertical Clearance.** Vertical clearance for parking spaces shall be 7 feet, except that an entrance
 2 may be 6.67 feet and the front 5 feet of a parking space serving a residential use may provide as
 3 little as 4.5 feet vertical clearance.
- 4 5. **Wheel Stops.** All spaces shall have wheel stops 2 feet from a fence, wall, or landscaped walkway
 5 unless this requirement is waived by the Planning Director. When a parking space abuts a
 6 landscaped planter, the front two feet of the required length for a parking space may extend into the
 7 planter (see Figure 63.2.6.c.5). Planter widths shall be consistent with the provisions of Section
 8 64.10.5.

9 **64.8. Off-Street Bicycle Parking.**

- 10 1. A device or rack for parking and securing bicycles shall be shown on any major site plan within
 11 convenient access of building entrances in all districts within growth areas and at commercial
 12 developments anywhere in the County.

13 **64.9. Off-Street Loading Dimensions and Design.**

- 14 1. **Required Dimensions.** Required loading spaces shall have the minimum dimensions shown below:

15 **Minimum Dimensions Required for Off-Street Loading Spaces**

Off-Street Loading Group Classification Number (Table 65.3.1) Gross Floor Area of Non-residential Structure (sq. ft.)	Minimum Dimensions (feet)
Off-Street Loading Group 1	10' x 20' x 10'
Off-Street Loading Group 2 < 10,000	10' x 20' x 10'
Off-Street Loading Group 2 > 10,000	first space 12' x 35' x 14' other(s) 10' x 20' x 10'
Off-Street Loading Group 3	12' x 50' x 14'

- 16 2. **Access.** On a site adjoining an alley, a required loading space shall be accessible from the alley
 17 unless the Planning Director approves alternative access. A required loading space shall be
 18 accessible without backing a truck onto a public road unless the Planning Director determines that
 19 provision of turn-around space is infeasible and approves alternative access.
- 20 3. **No Obstruction of Parking Spaces.** An occupied loading space shall not prevent access to a
 21 required off-street parking space.
- 22 4. **Screening.** A loading space shall be screened on three sides by a fence, wall, or hedge at least six
 23 feet in height so as not to be visible from any public road.

24 **64.10. Parking Lot and Structure Design.**

25 These regulations apply to all structures except single-family or two-family residences with independent
 26 driveways and parking for each unit.

- 27 1. **Required Dimensions.** Parking spaces and parking stalls shall have the dimensions as shown in
 28 Schedule 64.10.1.

Schedule 64.10.1: Minimum Dimensions for Parking Spaces in Parking Lots

Dimension		Angle of Parking				
		Parallel	30	45	60	90
A. Curb length per car	Small	16'0"	16'0"	11'0"	9'0"	8'0"
	Large	22'0"	18'0"	12'0"	10'0"	9'0"
B. Stall depth	Small	8'0"	13'6"	16'0"	16'6"	15'0"
	Large	8'0"	15'6"	19'0"	20'0"	18'0"
C. Aisle width	All	12'0"	12'0"	13'0"	18'0"	25'0"
D. Depth of two stalls	Small	--	21'0"	26'0"	29'6"	30'0"
	Large	--	27'0"	32'0"	35'6"	36'0"
E. Depth of two stalls plus aisle	Small	26'0"	39'0"	45'0"	52'0"	55'0"
	Large	28'0"	45'0"	52'0"	58'0"	61'0"

- 2 2. **Circulation.** A parking facility shall be designed to allow vehicles to circulate consistent with the
3 following standards:
 - 4 a. All spaces shall be independently accessible.
 - 5 b. Off-street circulation aisles are provided so that a vehicle need not use a public street to
6 maneuver from one parking aisle to another. However, an alley may be used to maneuver
7 between aisles.
- 8 3. **Screening.** In non-residential districts, a parking area for five or more cars shall be screened by a
9 Type B buffer from an adjoining residential district or residential use existing at the time of site plan
10 approval; see Schedule 63.3.a and 63.3.b.
- 11 4. **Lighting.** Outdoor parking facility lighting shall conform to Section 61.3.
- 12 5. **Landscaping.** Parking facilities shall conform to Section 63.2.
- 13
- 14 6. **Drainage.** Surface water shall be discharged to natural or engineered drainage facilities and may
15 not drain across public or private sidewalks, pedestrian walkways, or areas not designed as drainage
16 facilities.
- 17 7. **Surfacing.** Driveways and parking areas serving all development except single-family detached
18 dwellings shall be surfaced with concrete or asphalt or have grass and pavers or other suitable
19 landscaping material. Driveways and parking areas except single-family detached dwellings shall
20 include marking consistent with the following:
 - 21 a. Each parking space and parking facility shall be identified by surface markings and shall be
22 maintained in a manner so as to be readily visible and accessible at all times. Such
23 markings shall be arranged to provide for orderly and safe loading, unloading, parking, and
24 storage of vehicles. Markings required to be maintained in a highly visible condition
25 include striping, directional arrows, lettering and field color on signs in areas designated
26 for those who are disabled.
 - 27 b. One-way and two-way access ways into required parking facilities shall be identified by
28 directional arrows. Any two-way access located at any angle other than 90 degrees to a
29 street shall be marked with a traffic separation stripe throughout the length of the access;
30 such stripe, may be terminated in the aisles.
 - 31 c. Where the exit may not be clearly recognizable, directional signage must be provided.

1 **CHAPTER 65 SIGNS**

2 Sections:

- 3 65.1 Specific Purposes.
4 65.2 General Requirements.
5 65.3 Regulations for On-Premise Signs.
6 65.4 Regulations for Off-Site Advertising Signs.
7 65.5 Master Sign Plan

8 **65.1. Specific Purposes.**

- 9 1. The sign standards and regulations established in this chapter are intended to:
- 10 a. Provide each sign user an opportunity for effective identification by establishing the
11 number and area of signs permitted on all sites, consistent with standards of safety, the
12 needs of the traveling public for specific information, and the freedom to advertise; and
- 13 b. Maintain the visibility of on-premise signs and preserve the scenic beauty of the County;
14 and
- 15 c. Maintain and enhance the visual appearance of scenic corridors, designated historic areas,
16 and commercial and industrial areas; and
- 17 d. Regulate the number and size of signs according to standards consistent with the types of
18 establishments in each zoning district; and
- 19 e. Protect residential districts adjoining non-residential districts from adverse impacts of
20 nearby signs.
- 21 2. Except as otherwise specifically set forth herein, these provisions of this chapter do not apply to
22 official traffic or government signs; political advertising signs; signs that are not visible from a
23 public right-of-way or public land; product dispensers and point-of-purchase displays; scoreboards
24 on athletic fields; gravestones; barber poles; religious symbols; commemorative plaques; the
25 display of street numbers; or any display or construction not defined as a sign.

26 **65.2. General Requirements.**

- 27 1. ***Sign Permits Required.***
- 28 a. Unless otherwise exempted in this chapter, all commercial message signs visible to the
29 public shall require permits.
- 30 b. As a condition of permit approval, the Planning Director shall require the removal,
31 modification, or relocation of existing signs on the same site that violate the requirements
32 of this chapter.
- 33 c. The Planning Director may allow alteration of these sign regulations as part of a Master
34 Sign Plan, or where such alterations would permit use of signs that would better integrate
35 with the architecture or historic character of the existing or proposed building, the project
36 site or the surrounding neighborhood.
- 37 2. ***Prohibited Signs.*** Unless otherwise indicated elsewhere in this chapter, the following signs are
38 prohibited:
- 39 a. Signs on or extending above a building roof, except that, with approval of a Master Sign
40 Plan so providing, a wall sign may be architecturally integrated into a sloping roof fascia
41 or mansard roof.
- 42 b. Signs that resemble any official marker or, directional, warning, danger or informational
43 sign erected by the County or a city, state, or other government agency; or that, by reason

1 of position, shape, color, or illumination would conflict with the proper functioning of
2 any traffic sign or signal; or that would be a hazard to vehicular or pedestrian traffic.

- 3 c. Signs that produce odor, sound, smoke, fire, or other such emissions.
- 4 d. Signs that are not maintained in safe condition.
- 5 e. Signs that are Portable or Mobile.

6 3. ***Prohibited Locations.***

- 7 a. No sign or entrance feature shall create a visual obstruction within a vertical space
8 between three feet and 10 feet above the curb at intersections. The obstruction restriction
9 area includes all land in a triangular area extending from a point 10 feet in from an
10 intersection edge to a distance of 50 feet from the intersection edge along the street
11 property line. Two vertical sign or entrance feature supports with no horizontal
12 dimension greater than 16 inches are permitted within this vicinity of an intersection,
13 however. Refer to Figure 65.3.4.B.
- 14 b. No sign shall be affixed to any vehicle or trailer on a public street or public or private
15 property unless the vehicle or trailer is intended to be used in its normal business capacity
16 as a vehicle or trailer for transportation and not for the sole purpose of attracting business.
- 17 c. No sign shall be located within the public right-of-way except as provided in 4 b below.

18 4. ***Temporary and Miscellaneous Signs.***

- 19 a. Temporary signs, banners, flags, and other advertising devices may be placed to
20 announce civic events, the non-profit organizations sponsoring a civic event, the opening
21 of a new business, a special event, a public service, or a political campaign headquarters
22 or to introduce a new product or service. Such temporary signs may be placed for a
23 maximum of 60 days each calendar year provided the total temporary and permanent sign
24 area shall not exceed 150 percent of permitted permanent sign area, and provided that
25 temporary devices do not create safety hazards or block signs identifying adjoining
26 establishments.
- 27 b. In addition to the requirements specified in paragraph “a” of this Section, civic and
28 nonprofit organizations may advertise off-site those special events sponsored by said
29 organizations, in accordance with the following standards:
 - 30 1. Signs shall be subject to a minimum setback of five feet from the road right-of-
31 way.
 - 32 2. Signs shall be posted on private property only with the permission of the
33 property owner and the cumulative number of signs shall be limited to three on
34 any one property.
 - 35 3. Signs shall be limited to 12 square feet and shall be no more than 18 feet high.
 - 36 4. Signs shall be posted no more than 30 days prior to the event and shall be
37 removed no more than seven days after the event.
 - 38 5. Signs shall be removed by the sponsoring organization within seven calendar
39 days following the close of the event.
- 40 c. Banners may be placed across roadways and may require separate approval from the
41 State Highway Administration, Department of Public Works and Transportation or
42 Southern Maryland Electric Cooperative. Banners may not be displayed longer than two
43 weeks, may not contain commercial advertising except for names of sponsors, must
44 maintain a minimum of 18 feet clearance over the roadway, must be placed a minimum
45 of 200 feet from an intersection or the beginning of a turn lane and shall otherwise
46 comply with the manual on Uniform Traffic Devices.

47 5. ***Non-Conforming Signs.*** See Chapter 52 for regulations regarding nonconforming signs.

48 6. ***Exempt Signs.*** Signs exempt from of this chapter include:

-
- 1 a. **Construction Signs.** Temporary construction signs erected in conjunction with
2 construction projects and used for the purpose of publicizing future occupants of the
3 building and architects, engineers, financial institutions, and construction organizations
4 participating in the project. These temporary signs shall not exceed 64 square feet for
5 each road abutting the property frontage in commercial, mixed use and industrial
6 districts; 32 square feet per frontage for multi-family residential districts; and 18 square
7 feet per frontage for single-family residential and rural districts. No freestanding
8 construction sign shall exceed five feet in height. Construction signs shall be removed
9 within five working days following issuance of a certificate of occupancy. If the
10 construction project is not commenced within six months of the erection of the sign, it
11 shall lose its exemption under this section and be removed.
- 12 b. **Farm Marketing Signs.**
- 13 (1) On-premises advertising, not exceeding 32 square feet, for farm marketing
14 operations where farmers sell directly to the public only those farm or fisheries
15 products they have harvested themselves and advertising for "pick-your-own"
16 products.
- 17 (2) Off-premise advertising not exceeding 24 square feet for farm marketing
18 operations where farmers sell directly to the public only those farm or fisheries
19 products they have harvested themselves and advertising for "pick-your-own"
20 products for a farm that does not have frontage along a public road.
- 21 c. **Inspection Signs.** One official State Motor Vehicle Administration inspection sign
22 constructed of a permanent material for each type of inspection service offered on-site,
23 located flat against the wall of a building where such services are provided and not
24 exceeding four square feet in area.
- 25 d. **Miscellaneous Signs.**
- 26 (1) Credit card, trading stamp, or trade association signs not exceeding 0.5 square
27 foot each.
- 28 (2) Governmental flags not intended for commercial purposes.
- 29 (3) Holiday lights and displays not advertising a product or sale that are in place for
30 no more than 60 consecutive days per year.
- 31 (4) Nameplates not over two square feet in area, displaying the name and profession
32 of the occupant of the building and/or the address.
- 33 (5) Works of art not intended for advertising.
- 34 e. **Notices and Public Information Signs.**
- 35 (1) Official notices of or required by any court or public body or officer and notices
36 posted by a utility or other quasi-public agent in the performance of a public
37 duty or by any person giving due legal notice.
- 38 (2) Public transit seating signs and public information, directional, and warning
39 signs erected by a public agency.
- 40 f. **Parking and Directional Signs.** On-premise parking and other directional signs not
41 exceeding one double-faced sign per entrance that is not more than six square feet in area
42 and four feet in height, or 12 square feet in area and four feet in height if the entrance is
43 more than 100 feet from a public road.
- 44 g. **Political Campaign Signs.** Temporary political campaign signs not greater than 32
45 square feet in size may be erected in all districts. Illuminated political campaign signs are
46 prohibited and shall not be affixed to any public structure or erected in the public right-
47 of-way. Political campaign signs may not be erected more than 45 days prior to the
48 election, and shall be removed within 15 days after the primary election if the candidate

1 is not a candidate in the general election. All remaining political signs shall be removed
2 within 15 days after the general election.

3 h. **Product Signs.** Signs manufactured as a standard, integral part of a mass-produced
4 product accessory to a commercial or public or semipublic use, including telephone
5 booths, vending machines, automated teller machines, and gasoline pumps.

6 i. **Real Estate Signs.**

7 (1) On-site real estate signs advertising residential zoned property or uses five
8 square feet or less with no more than one sign per lot.

9 (2) On-site real estate signs advertising non-residential zoned property or uses
10 thirty-two square feet or less with no more than one sign per lot.

11 (3) Up to five temporary off-site directional signs including portable and A-frame
12 signs up to five square feet per side for advertisement of a real estate "open
13 house." These signs shall be removed within 24 hours of the conclusion of the
14 open house and shall meet the following requirements.

15 (a) Signs shall not be located in a way that interferes with traffic visibility.

16 (b) Signs shall not be in the median of any divided highway or any other
17 public right of way.

18 (c) Signs may be placed after 4:00 p.m. on Friday (Thursday prior to a
19 Friday holiday) and are to be removed by 8:00 a.m. Monday (Tuesday
20 following a Monday holiday).

21 (d) Signs shall not be attached to utility poles or County or state sign post.

22 (e) "Open House" directional real estate signs may not be larger than 24
23 inches square.

24 (f) No more than two "Open House" signs may be placed at an intersection
25 by any one entity.

26 (4) Off-site directional signs for the sale of improved residential real property by the
27 listing realtor or homeowner may be permitted in accordance with the following
28 standards:

29 (a) One off-site directional sign may be permitted for any one residential
30 property, and said sign shall not be located more than 5 miles from the
31 advertised property.

32 (b) Signs shall be posted on private property only with the permission of
33 the property owner, and the cumulative number of signs shall be limited
34 to two on any one property.

35 (c) Signs shall be located no closer than five (5) feet from the public road
36 right-of-way.

37 (d) Signs shall be limited to a maximum of twelve (12) square feet and
38 shall be no more than eighteen (18) feet high.

39 (e) Signs shall be posted no sooner than the date the property is listed for
40 sale by a licensed realtor or offered for sale by the owner. Signs shall
41 be removed by the realtor or owner no more than seven (7) days after
42 the expiration of the listing agreement or the date of settlement between
43 the seller and buyer, whichever occurs first.

44 (f) Subparagraph (4) shall terminate on June 30, 2011.

1 **65.3. Regulations for On-Premise Signs.**

- 2 1. The following regulations apply to all nonexempt, on-site signs that are visible from a public
3 right-of-way.
- 4 a. No on-premise sign shall exceed the height limits established for that sign type.
- 5 b. *Maximum Total Sign Area.* The maximum total sign area per site, excluding temporary
6 signs and exempt signs, shall be as set forth in Schedule 65.3. Each face of a sign shall
7 be counted when computing the total sign area for a site except that, when two sign faces
8 are placed back to back so that both faces can not be viewed from any point at the same
9 time and each contains identical text and graphics, the area of only one side shall be
10 counted when computing the area of that sign. No sign or sign area permitted on one
11 frontage shall be transferred to another frontage except in accordance with a Master Sign
12 Plan.

13 **Schedule 65.3: Maximum Sign Area by Districts and Sign Type**

District	Sign Type	Square footage and Number Allowed (see subsection c, below)
Rural Preservation and RCL districts	Freestanding	32 sq. ft. of signage, with a maximum of one freestanding sign per site, except as noted otherwise in Section 65.3.4.i.
	Wall	32 sq. ft. of signage per business.
Residential Districts	All types	6 sq. ft. of signage per lot with a maximum height of 5 ft., excluding residential subdivision entry signs.
Mixed Use, Commercial, Marine Commercial and Industrial districts	Freestanding	64 sq. ft. with a maximum of one sign per lot, except as noted otherwise in Section 65.3.4.i. Greater sign area is allowed along state highways (see subsection c, below).
	Wall	Buildings with a front setback of less than 50 feet: 1 sq. ft. per lineal foot of building width up to a maximum of 100 square feet per building. Greater sign area is allowed for multistory office buildings (See subsection c, below).
	Wall	Buildings with a front setback of 50 feet or more: 1.5 sq. ft. per lineal foot of building width, up to 150 square feet per building. Greater sign area is allowed for multistory office buildings. (See Section 65.3.3).
Mixed Use, Commercial, Marine, Commercial and Industrial districts	Projecting	16 sq. ft. per building (cumulative area of walls and projecting signs shall not exceed 100 sq. ft. per wall or 150 sq. ft. per building.

- 14 c. *Highway-Oriented Sign Bonus.* The total maximum sign area for freestanding signs,
15 excluding electronic changeable copy signs as defined in Section 65.3.4.i, that are visible
16 from a state highway with a posted speed limit of 50 miles per hour or more may be
17 increased up to 172 square feet, and the maximum height to 20 feet.

18 2. **Wall Signs.**

- 19 a. Wall signs shall not project above an apparent eave or parapet, including the eave of a
20 mansard roof except that with approval of a Master Sign Plan so providing, a wall sign
21 may be architecturally integrated into a sloping roof fascia or mansard roof.
- 22 b. A wall sign shall not project more than 14 inches from the face of the building.

23 3. **Multistory Office Signs.**

- 24 a. Multistory office building signs shall be located below the parapet at a height and scale
25 architecturally compatible with the building, as is demonstrated in Figure 65.3.3.
- 26 b. Multistory office building sign(s) per road frontage, not to cumulatively exceed 250 sq.
27 ft., except as provided in a Master Sign Plan.
- 28 c. Individual channel-type letters, internally illuminated letters, and/or logos shall be
29 permitted.

30

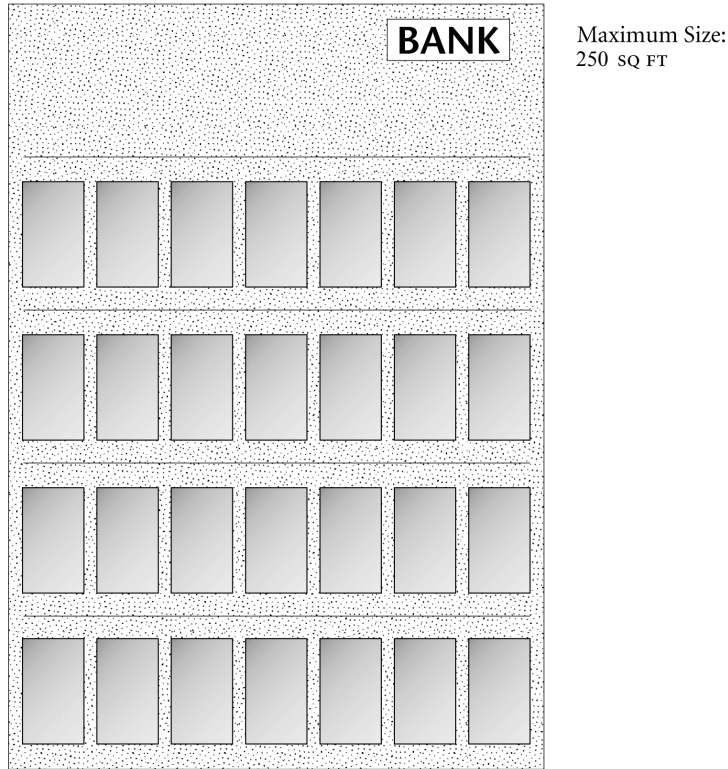
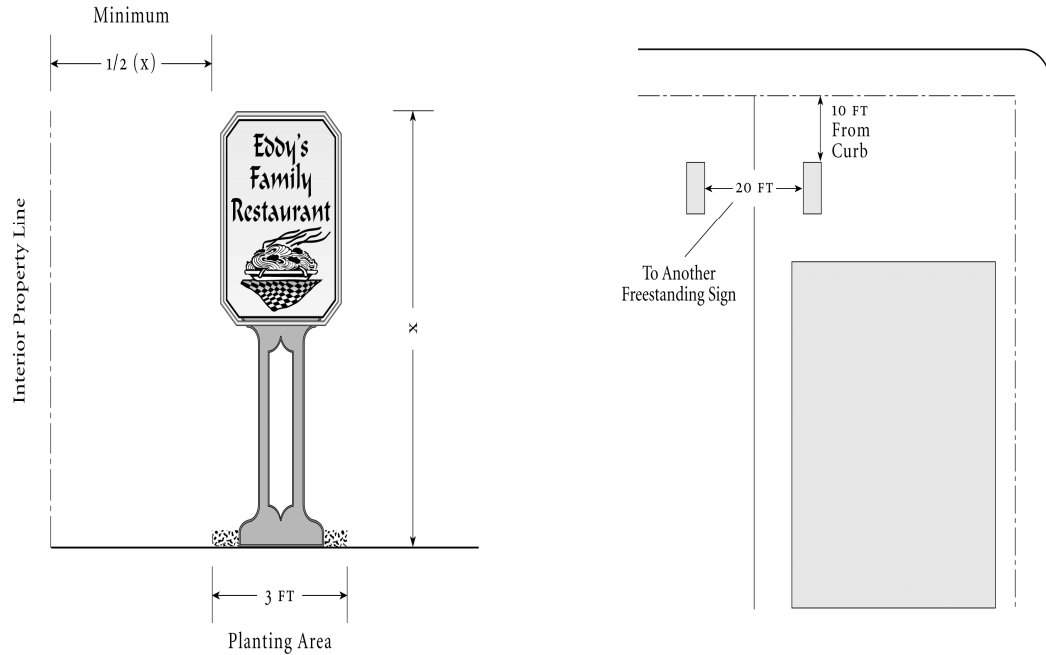


Figure 65.3.3: Multistory Building Sign

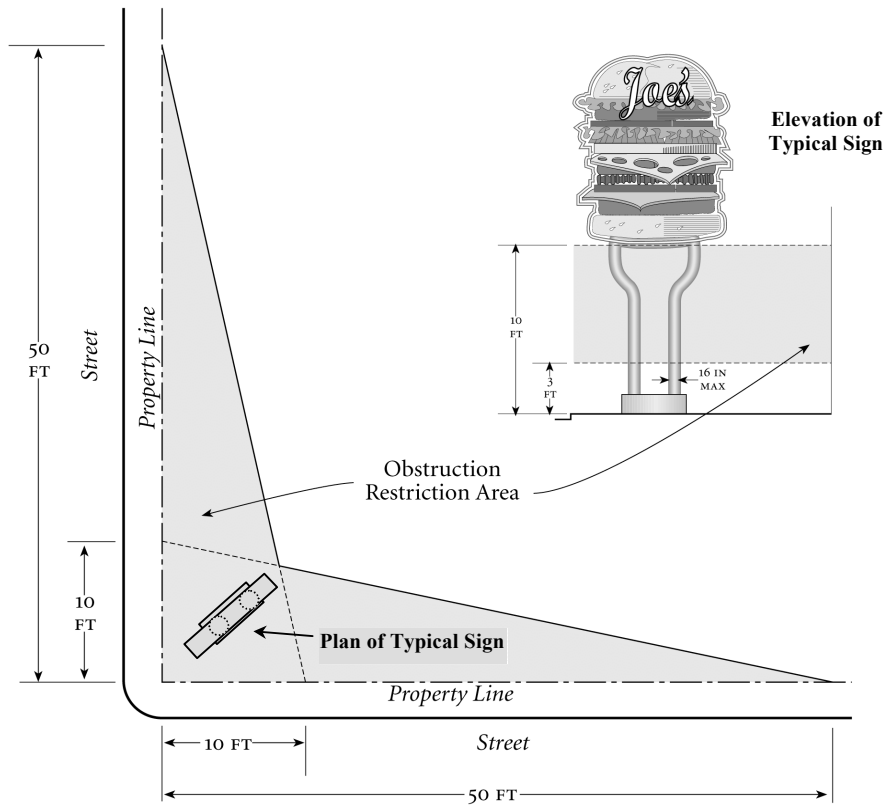
4. ***Freestanding Signs.***

- a. For multi-family and non-residential uses permitted in residential districts, one freestanding sign not exceeding six square feet in area and five feet in height is permitted on a lot. In addition, a freestanding entry identification sign for a residential subdivision or multifamily housing project, not exceeding 32 square feet, is permitted.
- b. Outside growth areas in the RPD, RSC, RCL, CM, or RNC zones, one freestanding sign not exceeding 32 square feet in sign area and 16 feet in height is permitted on a lot, unless otherwise provided in this Ordinance.
- c. In growth areas, one freestanding sign not exceeding 64 square feet per sign face is permitted. The maximum height of freestanding signs shall not exceed 20 feet. One additional sign may advertise state-required gas pricing information.
- d. A freestanding sign shall not be closer to an interior property line than half its height.
- e. A freestanding sign shall not be closer than 20 feet to a projecting sign on the same site.
- f. A freestanding sign shall not extend over a public right-of-way or utilities line and shall not be located on the same frontage as a projecting sign. One additional sign may advertise state-required gas pricing information.
- g. All freestanding signs shall be at least 10 feet from the nearest curb of a public road surface.
- h. Permanent freestanding signs shall be placed within a planted area not less than three feet wide around the base of the sign.



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Figure 65.3.4.A: Freestanding Sign Requirements



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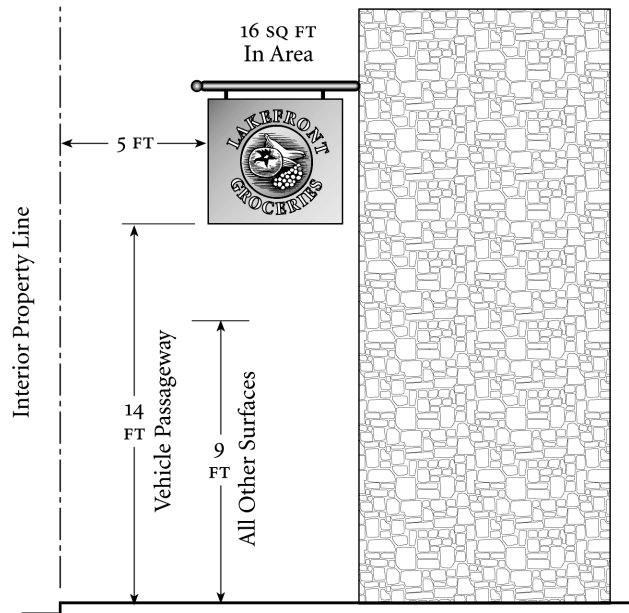
Figure 65.3.4.B: Freestanding Sign Requirements

- i. One freestanding, on-premise electronic changeable copy sign may be permitted in the Development Districts, Village Centers, and Town Centers only in accordance with the following standards:

- 1 (1) The message(s) shall be on a cycle of not less than ten seconds.
- 2 (2) An electronic changeable copy sign shall not exceed 50 percent of the allowable
- 3 sign face and in no case shall it exceed 32 square feet of sign face.
- 4 (3) The electronic message(s) shall not scroll vertically, horizontally, or diagonally.
- 5 (4) Animation and sound shall be prohibited.
- 6 (5) No changing sign shall include animated, flashing, full-motion video,
- 7 shimmering, or other intermittent elements. The transition period between two
- 8 fully illuminated static message displays in an electronically changed sign shall
- 9 not be considered an intermittent element as long as the purpose of the changing
- 10 light intensity is to fade or dissolve into the next message.
- 11 (6) Section 65.3.1.c pertaining to the Highway-Oriented Sign Bonus shall not apply
- 12 to electronic changeable copy signs.
- 13 (7) *Exception:* A public safety facility, so described in Schedule 50.4 of this
- 14 Ordinance, with frontage on a major collector or arterial road classification, may
- 15 install one freestanding electronic changeable copy sign in accordance with
- 16 Subsections (1) through (6) of this Section.

17 **5. Projecting Signs.**

- 18 a. The maximum size of a projecting sign shall be 16 square feet.
- 19 b. No portion of a projecting sign shall be less than nine feet above the surface over which it
- 20 projects or less than 14 feet above a vehicular passageway.
- 21 c. A projecting sign shall be set back at least five feet from an interior property line.
- 22 d. No portion of a projecting sign shall project above an apparent eave, including the eave
- 23 of a mansard roof.



24 **Figure 65.3.5: Projecting Sign Requirements**

25 **6. Illumination and Movement.**

- 26 a. Sign illumination shall conform to Section 61.3.
- 27

- 1 b. No movement or apparent movement of or in a sign or change in intensity of illumination
2 of a sign shall be permitted, except as provided in Section 65.3 pertaining to electronic
3 changeable copy signs, and except for a time or temperature sign consistent with other
4 regulations of this chapter that include no changeable text.
- 5 c. Very rapidly flashing or stroboscopic lights or signs are prohibited, as are signs that are of
6 such brilliance or so positioned that they would impede the vision of travelers on a state
7 highway or county road.

8 **65.4. Regulations for Off-Site Advertising Signs.**

9 Off-site advertising signs are only permitted within the County in accordance with this section. Any
10 nonconforming off-site advertising sign may only be reconstructed or relocated pursuant to a relocation
11 agreement between the County and the sign owner.

12 1. **Directional Signs.** These signs are intended for the purpose of indicating direction only to home
13 occupations in accordance with Section 51.3.116 of this ordinance and for the purpose of
14 indicating distance and/or direction to service type business and tourist-oriented destinations
15 specifically identified in the adopted Southern Maryland Heritage Area Plan, in accordance with
16 the following:

- 17 a. Signs shall be subject to a minimum setback of five feet from the road right of way.
- 18 b. Signs shall be limited to these: (1) retail businesses serving the traveling public, such as
19 filling stations, restaurants, motels, marinas, grocery and carry-out stores, etc.; or (2)
20 agricultural businesses. Signs shall not be permitted for businesses serving primarily
21 local needs such as furniture, jewelry, shoes, etc.
- 22 c. Signs shall be limited to three in number for any business location, and shall not be
23 located more than 10 miles from the subject business location.
- 24 d. Each sign shall be limited to 12 square feet and shall be no more than 18 feet high.

25 2. **Bus Shelters.** Signs may only be displayed on a bus shelter located at a site certified as a current
26 school bus stop by the School Director of Transportation, or as a public transportation bus stop by
27 other appropriate officials. Signs displayed on bus shelters are subject to state regulations and the
28 following provisions:

- 29 a. The sign area shall not exceed 32 square feet per sign and no more than one sign facing in
30 any direction, not to exceed a total of two (2) signs.
- 31 b. The permit for a sign displayed on a bus shelter must be renewed each year.
- 32 c. Any existing bus shelter on which signs are displayed must be certified each year as an
33 official bus stop.
- 34 d. Any sign currently existing on a bus shelter at a site that is not currently certified as an
35 official bus stop shall be removed within 15 days of notification by the Planning Director
36 that the site is no longer an official bus stop.

37 3. **Nonprofit and civic organizations** using an IRS 501(c) exemption may place one permanent
38 freestanding sign in the County, on private property only, which may identify the organization,
39 provide contact information, and note upcoming meetings or events. Such freestanding sign may
40 be in the form of an electronic changeable copy sign, which must comply with Section 65.3.4.i of
41 this Ordinance. The sign shall be limited to 40 square feet and shall be no more than 18 feet high.
42 Each Chapter of a nonprofit or civic organization may have one sign in accordance with this
43 Section.

44 **65.5. Master Sign Plan**

45 Master sign plans may be submitted to the Planning Director for any residential or non-residential
46 development requiring site plan or subdivision approval.

- 47 1. Applications for approval of a master sign plan shall be submitted to the Department of Land Use
48 and Growth Management and shall include:

- 1 a. A master sign plan, drawn to scale, delineating the site proposed to be included within the
2 signing program and the general locations of all signs; and
- 3 b. Drawings and/or sketches indicating the dimensions, location, and sign area for
4 freestanding signs and directional signs; and
- 5 c. Drawings and/or sketches indicating the exterior surface details of all buildings on the
6 site on which wall signs, directory signs, or projecting signs are proposed; and
- 7 d. A statement of the reasons for any requested modifications to the regulations or standards
8 of this chapter.
- 9 2. A master sign plan may include more than one freestanding sign per parcel or other deviations
10 from the standards of this chapter, provided that the total sign area shall not exceed the area
11 otherwise permitted by more than 25 percent as shown in Schedule 65.3.1. Before approving a
12 master sign plan, the Planning Director must find:
 - 13 a. That the plan's contribution to the design quality of the site and surrounding area will be
14 superior to the quality that would result under the regulations and standards of this
15 chapter; and
 - 16 b. That the proposed signs are compatible with the style or character of existing
17 improvements on the site and are well-related to each other.
- 18 3. The Planning Director may impose reasonable conditions to a master sign plan necessary to carry
19 out the intent of this chapter.
- 20 4. Any person aggrieved by a decision of the Planning Director may submit an appeal to the Board of
21 Appeals within 30 days of the Planning Director's decision.

1 **CHAPTER 66 STREET ADDRESSING AND NAMING**

2 Sections:

- 3 66.1 Purpose and Authority.
4 66.2 Road Naming and Addressing Manual and Maps.
5 66.3 Official Road Name List.
6 66.4 Address Numbers.
7 66.5 Notification, Use, and Display of Address Numbers.
8 66.6 Compliance with Section.

9 **66.1. Purpose and Authority.**

10 The purpose of this chapter is to establish a system for assignment of street names and numbering of houses,
11 businesses, and other principal structures in St. Mary's County.

12 **66.2. Road Naming and Addressing Manual and Maps.**

- 13 1. **Manual Required.** By Resolution #Z-93-05, the Board of County Commissioners established a Road
14 Naming and Addressing Manual and provided for its modification and amendment. This manual describes
15 in detail the criteria, procedures, and methods used to name roads and to assign address numbers, and is
16 maintained in the Department of Land Use and Growth Management by the Planning Director.
17 2. **Required Map.** The Planning Director shall maintain a set of maps that display property boundaries, the
18 address grid system, and the names and route numbers of roads.

19 **66.3. Official Road Name List.**

- 20 1. **List Established.** The Board of County Commissioners established an official list of road names signed
21 July 13, 1993 by the Board president.
22 2. **Amendments.** The Official Road Name List may be amended from time to time pursuant to the procedures
23 set forth in the Road Naming and Addressing Manual cited in paragraph 1 above. The Planning Director
24 shall have authority to correct any clerical errors and delete the names of unused roads from the list. The
25 Planning Director may also approve a change in the name of a road when a petition has been duly
26 submitted bearing the signatures of 100 percent of the owners of properties abutting the road. When such
27 petition contains less than 100 percent, the procedures of the Road Naming and Addressing Manual shall
28 apply.
29 3. **New Road Names.** Any new road opened, platted, or created after the effective date of this Ordinance shall
30 be incorporated into the Official Road Name List by the Planning Director if the road meets the criteria
31 contained in the Road Naming and Addressing Manual. The Planning Director shall have the authority to
32 approve the name of any new road without a hearing before the Board of County Commissioners.

33 **66.4. Address Numbers.**

34 All properties containing a home, business, or other primary use or structure shall have an address number assigned
35 in accordance with the criteria and procedures specified in the Road Naming and Addressing Manual. The Planning
36 Director shall prepare and maintain the list of properties and addresses.

- 37 1. Any subdivision plat that creates new residential building lots after the effective date of this Ordinance
38 (except farmstead subdivisions) shall include the address number for each lot. Address numbers shall be
39 assigned in accordance with the criteria and procedures specified in the Road Naming and Addressing
40 Manual.
41 2. The address number for vacant "farmstead subdivision lots" shall be assigned pursuant to Section 66.4.3.
42 3. The Planning Director shall assign an address number to a property prior to the issuance of a building
43 permit, when such address does not already exist.

1 **66.5. Notification, Use, and Display of Address Numbers.**

2 1. **Notification.** Following the initial assignment of addresses, the Planning Director shall mail a notification
3 of the new address to the owner of the property by U.S. mail, first class postage prepaid. The owner of any
4 property who receives notification of a new address number shall be responsible for informing all tenants
5 or occupants of their new address.

6 2. **Address Changes.** The owner or occupant shall make all address changes or adjustments as instructed in
7 the above referenced notification. Thereafter, the address number assigned under this Ordinance shall be
8 the only authorized street address for the affected premises.

9 3. **Display of Address Number.** Upon receipt of the notification of the new address, the owner shall have
10 placed on the affected property, in a location visible from the road upon which the address number is
11 assigned, figures at least three inches high showing the number of the house or building. Numbers placed
12 on both sides of mailboxes or signs shall satisfy this requirement only if the home or building is clearly
13 identifiable in relation to the mailbox or sign.

14 a. Temporary display of addresses for new structures shall be maintained during construction.

15 b. Permanent display of addresses pursuant to the Road Naming and Addressing Manual shall be
16 established upon completion of the construction and before a certificate of occupancy is issued.

17 c. The permanent display of addresses pursuant to the Road Naming and Addressing Manual shall be
18 maintained by the owner of the property.

19 **66.6. Compliance with Section.**

20 No owner of real property shall number, attempt to number, or fail to number the property or the principal building
21 thereon other than in conformity with this chapter. The County shall send a written notice, by first-class mail, to any
22 owner not in compliance with this chapter to the owner's address as stated in the records of the County, directing
23 specific compliance with any provision of this chapter. Failure or refusal of such owner, within 10 days of such
24 notice, to comply with the directives stated therein shall constitute a violation of this chapter.
25

ARTICLE 7. SITE DEVELOPMENT AND RESOURCE PROTECTION STANDARDS

CHAPTER 70 ADEQUATE PUBLIC FACILITIES

Sections:

- 70.1 Purpose.
- 70.2 Applicability.
- 70.3 Exemptions.
- 70.4 Essential Public Facilities.
- 70.5 Submission Requirements.
- 70.6 Procedure for Determination of Adequacy of Public Facilities.
- 70.7 Roads.
- 70.8 Sewerage.
- 70.9 Water.
- 70.10 Storm Drainage.
- 70.11 Schools.
- 70.12 Fire Prevention and Suppression.
- 70.13 Update of Standards, Criteria, and Procedures for Adequate Public Facilities Analyses.

70.1. Purpose.

The purpose of adequate public facilities review is to:

1. Implement adequate public facilities policies of the Comprehensive Plan and other functional plans adopted pursuant to the policies of the Comprehensive Plan, including:
 - a. The Lexington Park Transportation Plan,
 - b. The Comprehensive Water and Sewerage Plan,
 - c. The Educational Facilities Master Plan,
 - d. The Fire and Rescue Services Master Plan,
 - e. The Land Preservation and Recreation Plan, and
 - f. The Capital Improvements Program (CIP).
2. Require developers to provide or make arrangements for new or additional public facilities, or upgrades of existing public facilities that are necessary to address the impacts of their projects.
3. Control phasing and timing of development approval by conditioning such approval upon a finding that public facilities sufficient to serve proposed development are present or will be provided concurrent with that development.
4. Encourage new development to occur in areas of the County where public facilities are being provided and which are designated for new growth in the Comprehensive Plan; and
5. Assure that proposed development will not adversely affect the public health, safety, and welfare; and
6. Implement uniform procedures, standards, and requirements for the review of development applications.

70.2. Applicability.

Compliance with the adequate public facilities provisions of this chapter is required at preliminary subdivision plan approval and/or final site plan approval. No plan for a subdivision, or major site plan shall be approved unless the Planning Director or the Planning Commission, as the case may be, first determines that the proposed subdivision or development will not adversely affect the adequacy of public facilities

1 serving the area, project, or development or, in the alternative, adequate public facilities will be provided
2 concurrent with the development of the project.

3 1. Subdivisions.

4 a. Approval of a preliminary plan submission for a major subdivision by the Planning
5 Commission or final plan approval of a minor subdivision by the Planning Director shall
6 be based on, among other requirements of this Ordinance, a determination that adequate
7 public facilities, as defined in Sections 70.7 through 70.12, will be available to serve the
8 new development except for storm drainage. Prior to subdivision recordation a
9 determination shall be made that storm drainage is adequate, that necessary sewer
10 allocations have been made and all necessary legal arrangements and financial guarantees
11 required under this chapter shall be executed.

12 b. Approval of a minor subdivision final plan, including allocation of APF capacity, may be
13 made by the Planning Director under delegated authority from the Planning Commission.

14 2. *Site Plans.* For site plans, adequacy determinations shall be made at final site plan review.
15 Approval of a final site plan by the Planning Director shall be based on a determination that
16 adequate public facilities, as defined in Sections 70.7 through 70.12, will be available to serve the
17 new development. Prior to signature approval of any site plan approved by the Planning Director,
18 all necessary legal arrangements and financial guarantees required under this chapter shall be
19 executed.

20 3. *Water Dependent Facilities.* For water-dependent facilities, including marinas, where approval of
21 a concept development site plan is required by this Ordinance, adequacy determinations may be
22 made by the Planning Commission at the time of approval of the concept development site plan
23 approval.

24 4. *Planned Developments; Rezoning.* All properties involved in zoning amendments shall be
25 subject to the provisions of this chapter during the subdivision and/or site plan approval processes.

26 5. *Effect of Determination.* A determination that public facilities are adequate shall apply to the
27 proposed development and shall not be modified through final subdivision plat approval.

28 6. *Expiration of Adequate Public Facilities.* All findings of adequacy for roads, sewerage, water, fire
29 suppression water supply, storm drainage, and schools shall expire with the expiration of the final
30 approval of the major site plan, pursuant to Section 60.8.1 of the St. Mary's County
31 Comprehensive Zoning Ordinance, and with the expiration of the approval of the preliminary plan
32 for major subdivisions, pursuant to Section 30.5.4 of the St. Mary's County Subdivision
33 Ordinance.

34 **70.3. Exemptions.**

35 Except for a determination of the adequacy of sewer and water service, this Chapter does not apply to a
36 residential subdivision that creates no more than two (2) family lots from a parcel or from a lot of record as
37 of September 4, 2008, or a minor site plan for non-residential developments containing less than 5,000
38 square feet of floor area.

39 **70.4. Essential Public Facilities.**

40 For purposes of this chapter and the requirement that public facilities sufficient to serve the proposed
41 development are present or will be provided concurrently with the proposed development. The following
42 public facilities shall be deemed essential public facilities that the absence of which may serve as the basis
43 for delay of approval until APF findings can be made.

- 1 1. Roads.
- 2 2. Sewerage.
- 3 3. Water.
- 4 4. Fire Suppression Water Supply.
- 5 5. Storm Drainage.
- 6 6. Schools.

7 **70.5. Submission Requirements.**

- 8 1. *Submission to the Planning Director.* An applicant shall submit an adequate public facilities study
- 9 (APFS) in conformance with the requirements of this chapter as part of the preliminary
- 10 subdivision or major site plan application. The Planning Director shall determine whether the
- 11 application is complete pursuant to Section 21.1.1, and whether it complies with the APFS
- 12 submission requirements set forth below. If the submission is complete, the Planning Director
- 13 shall evaluate the APFS for the proposed development for compliance and shall submit a report
- 14 pursuant to Section 70.6.1 below.

- 15 2. An APFS shall contain the following information:
 - 16 a. A description of the proposed development, its location, and the conditions of all public
 - 17 facilities that are regulated by this chapter; and
 - 18 b. An assessment of the vehicle trips generated by the development, (see Schedule
 - 19 70.7.4);and
 - 20 c. The number of potential public school students generated by the development; and
 - 21 d. Market absorption of the project; and
 - 22 e. Analyses and identification of project impacts on public facilities covered by this chapter;
 - 23 and
 - 24 f. Proposed mitigation program for impacts to public facilities; and
 - 25 g. A completed form summarizing development impacts as set forth at Schedule 70.5 for
 - 26 each phase of construction; and

27 **Schedule 70.5: Summary information on Development Impacts**

Subdivision Name/Site Plan Name Phase Planned start of construction date Planned end of construction date	Before development	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	At Buildout
Dwelling units												
Non-residential development square footage												
Total Trip generation from residences												
Total Trip generation from non-residential development												
School population												
Elementary												
Middle												
High												
Average daily water usage												
Average daily sewage flow												
Fire suppression water supply and Stormwater Management.												

- 28 h. A traffic impact study if required by Section 70.7.4 of this Ordinance, that complies with
- 29 the requirements of this section and any supplemental guidelines approved by the
- 30 Director of Department of Public Works and Transportation. At a minimum the study
- 31 area shall include the point of first ingress to and egress from the proposed development

1 to and including the intersection with the first county collector or arterial road or state
2 highway in all directions from the proposed development. The study shall include:

- 3 (1) Include traffic flow studies of the roads and intersections that will be affected by
4 vehicular traffic to and from the development.
- 5 (2) Consider, at a minimum, existing traffic and pavement conditions, traffic
6 projected to be generated from other proposed developments for which site
7 plan or preliminary plan approval have been granted, projected increases in
8 through traffic at the time of completion of the proposed development, and
9 traffic projected to be generated from the proposed development.
- 10 (3) Propose any road improvements necessary to achieve the required level of
11 service.

12 i. A school impact study using the latest official September 30 enrollments published by the
13 St. Mary's County Board of Education including:

- 14 (1) Schools to be attended by the projected student population of the project and
15 existing enrollments at those schools; and
- 16 (2) The student yield per dwelling unit as published in the latest Board of County
17 Commissioners adopted economic impact fee study.

18 j. An assessment of the adequacy of sewerage, domestic water supply, fire suppression
19 water supply, and storm drainage, based upon the adequacy criteria set forth in Section
20 70.8, 70.9, 70.12 and 70.10 respectively.

21 **70.6. Procedure for Determination of Adequacy of Public Facilities.**

22 1. Planning Director Determination on Major Site Plans.

- 23 a. If the Planning Director concludes that each public facility will be adequate to serve the
24 proposed development at the standards set forth in this chapter, the Planning Director
25 shall make a positive recommendation in his staff report.
- 26 b. If the Planning Director determines that any public facility will not be adequate to serve
27 the proposed development at the standards set forth in this chapter, the Planning
28 Director's report shall indicate appropriate mitigation consistent with the criteria set forth
29 in Section 70.6.3 below, as conditions for approval. Mitigation for an inadequacy in
30 schools shall not be permitted.
- 31 c. If the Planning Director determines that the application should be conditionally approved,
32 the Planning Director's report shall identify conditions or stipulations that may be
33 included regarding the density of the proposed development, the timing and phasing of
34 the proposed residential development, the provision of public facilities by the applicant or
35 any other reasonable conditions to ensure that all public facilities will be adequate to
36 serve the proposed development when it will begin to utilize such public facilities. The
37 report shall, at a minimum, include the following:

- 38 (1) For residential developments, the number and type of dwelling units proposed
39 by the applicant and the impact of those dwelling units on each category of
40 public facilities set forth in this chapter;
- 41 (2) For non-residential developments, the amount of square footage by type
42 proposed by the applicant and the impact of that square footage on each
43 category of public facilities set forth in this chapter.
- 44 (3) The timing and phasing of the proposed development, if applicable.
- 45 (4) The capacity of existing public facilities in the area that will be affected by the
46 proposed development.
- 47 (5) The availability of existing capacity to accommodate the proposed development.

- 1 (6) If existing capacity is not available, planned capacity and the year in which such
2 planned capacity is projected to be available.
- 3 2. *Planning Commission Determination on Major Subdivisions.* In the case of major subdivisions,
4 the Planning Commission shall make the adequate public facilities determination. In making that
5 determination, the Commission shall receive and review the Planning Director's report prepared
6 for the major subdivision pursuant to the same standards in Section 70.6.1, the adequate public
7 facilities study (APFS), and other information submitted by the applicant. Upon review of this
8 information, the Commission shall determine if the required level of infrastructure exists or will
9 exist to meet the standards of this chapter, and whether the approval of the proposed development
10 will be in the public interest.
- 11 3. *Mitigation Required.* Upon determination by the Planning Director or the Planning Commission,
12 as the case may be, that public facilities are not adequate, the Planning Director (for major site
13 plans) and the Planning Commission (for major subdivisions) may disapprove the project or
14 require mitigation from an applicant to ensure that adequate levels of public facilities consistent
15 with this chapter will be put in place concurrent with development.
- 16 a. Except for school facilities, mitigation may include one or more of the following:
- 17 (1) Dedication of property to the County.
- 18 (2) Additional or special impact fees.
- 19 (3) Fees in lieu of an improvement.
- 20 (4) Participation in necessary private/public partnerships to provide required public
21 facilities.
- 22 (5) Developer agreements.
- 23 (6) Off-site improvements.
- 24 (7) Other mechanisms as may be determined to provide adequate public facilities by
25 the Planning Director or Planning Commission, as the approving authority.
- 26 b. For school facilities, mitigation may include dedication of property to the County,
27 including but not limited to suitable school sites, where "suitable" shall mean that the site
28 is acceptable to the Board of Education and that:
- 29 (1) The site is located within a service area that is in need of additional capacity;
- 30 (2) The site is useable;
- 31 (3) The site is sized to satisfy state criteria; and
- 32 (4) The school to be located within the site is funded for construction within the first
33 three years of the CIP.
- 34 c. The Planning Director (for major site plan) and the Planning Commission (for major
35 subdivision) shall review and have final approval of the proposed mitigation program of a
36 proposed major subdivision or development. A mitigation program shall include the
37 type(s) and methods of mitigation and schedules for the implementation of the mitigation
38 program.
- 39 d. A mitigation program shall be contained in a legal, binding, adequate public facilities
40 agreement between the applicant and the County. Such agreement must have been
41 approved for form and content by the County Attorney.
- 42 e. A mitigation program shall be binding on the heirs, successors, and assigns of a project
43 and shall run with the land. The deed or title for a property shall contain references to the
44 mitigation program.

- 1 4. *Disapproval of Project.* If an applicant fails to agree to a mitigation program to assure adequate
2 levels of essential public facilities, the Planning Director (for major site plan) or Planning
3 Commission (for major subdivision) shall disapprove the project for want of adequate public
4 facilities as required by this chapter.
- 5 5. *Bonding or Surety.* The Planning Commission shall require bonding or surety as appropriate to
6 cover the costs of the facilities and lands not under the applicant's ownership that are part of a
7 mitigation program. Upon default, the County shall have the authority to redeem the bonds or
8 surety in addition to any other remedy provided by law.

9 **70.7. Roads.**

- 10 1. *Access.* Service drives; acceleration, deceleration, passing, or turning lanes; traffic control signal
11 or other traffic control measures and shared access with adjacent sites may be required by the
12 appropriate approving authority, either the Planning Commission or the Planning Director, at the
13 request of the Director of Public Works and Transportation, at principal vehicular access points,
14 with length and width as appropriate to the anticipated flow of traffic. Roads to serve the
15 proposed development shall be designed and constructed in accordance with the County Road
16 Ordinance and shall be adequate to accommodate the vehicular traffic projected to be generated by
17 the development. Pedestrian and bicycle access shall be coordinated with the vehicular access and
18 separated to the maximum degree possible from vehicular access points to reduce congestion,
19 friction, and hazard.
- 20 2. *Determining Adequacy.* Roads shall be considered adequate to accommodate traffic projected to
21 be generated by the proposed development if:
- 22 a. Roads serving the project are a minimum of 18 feet wide and are or will be capable of
23 accommodating existing traffic, traffic projected to be generated from developments for
24 which plats and plans have been approved, and traffic projected from the proposed
25 development at an adequate level of service, as set forth below. Service levels shall be
26 met from the first points of egress from and ingress to the proposed development to and
27 including the intersection with the first county or state collector or arterial road or state
28 road in all directions from the development; or
- 29 b. The County or State has programmed for construction in a capital improvements program
30 or similar plan, at least 75 percent funded in the then current fiscal year, additional roads
31 or road improvements necessary in combination with existing roads and intersections to
32 comply with the standards specified in Section 70.7.3.b; or
- 33 c. The applicant agrees to undertake the construction of the roads or road improvements
34 necessary to comply with the standards specified in Section 70.7.3.b.
- 35 d. The development is located within designated revitalization areas and/or development
36 districts where the County wants to encourage new development, or redevelopment.
37 These developments would be allowed to proceed in certain areas experiencing
38 unacceptable levels of service, provided that transportation improvements are made
39 which would result in an improvement in traffic operations beyond what would have been
40 expected if the development had not occurred. In addition, mitigation measures may be
41 required by the Planning Commission to comply with the standards specified in Section
42 70.7.3.b.
- 43 e. The project must comply with the provisions of the St. Mary's County Subdivision
44 Ordinance for private roads, as amended from time to time, for lots served by a private
45 drive or road.
- 46 3. *Standards for Level of Service.*
- 47 a. Service levels shall be as defined by the current edition of the Highway Capacity Manual
48 (Special Report #209) published by the Transportation Research Board or other
49 acceptable methodology, as amended from time to time; or

- 1 b. The established minimum level of service (LOS, as computed per the critical lane
2 analysis method) for intersection capacity for developments in base zoning districts
3 within planning districts designated in the Comprehensive Plan as follows:

4 **Schedule 70.7.3: Allowable Levels of Service**

Base Zoning District	Comprehensive Plan District		Peak Hour
Residential Districts	Development Districts		LOS D
	Town Centers and Village Centers		LOS C
Commercial and Mixed Use Districts	Development Districts		LOS D
	Town Centers and Village Centers		LOS C
Industrial and Office Districts	Development Districts		LOS D
	Town Centers and Village Centers		LOC C
Rural Districts and Commercial Marine Districts	Rural Preservation District		LOS C

- 5 4. *Traffic Impact Study.* The applicant shall submit a traffic impact study including traffic flow
6 studies of the roads, highways, and intersections identified in the preliminary analysis, if deemed
7 necessary by the Director of the Department of Public Works and Transportation given the vehicle
8 trip generation data submitted as part of the adequate public facilities study. A traffic impact study
9 shall meet the following requirements:
- 10 a. A link capacity analysis shall be performed on the major public roadways within the
11 study area where the traffic signal spacing exceeds two miles.
- 12 b. An unsignalized analysis shall be utilized at intersections not programmed to be
13 signalized at the time of the study. The result of the analysis shall be to determine proper
14 lane usage at the intersection, and the need for traffic signal warrant analysis.
- 15 c. A traffic signal warrant analysis shall be performed when appropriate using standard
16 methodologies and criteria.
- 17 d. Any pass-by trip percentage, and any trip generation rates not listed below, will be in
18 accordance with the latest edition of the Institute of Transportation Engineer's Trip
19 Generation Manual. If a trip generation rate has been calculated for a specific
20 development, usage of that rate may be approved by the Director of Department of Public
21 Works and Transportation.
- 22 e. Estimated queue lengths will be calculated to check the adequacy of the length of all turn
23 lanes at each intersection. Maryland State Highway Administration (SHA) criteria shall
24 be used to estimate the queue lengths.
- 25 f. Special circumstances (such as wide medians or closely spaced intersections) may exist
26 that prevent an accurate measure of level-of-service by conventional analysis. Under
27 these circumstances, adjustments to the analysis assumptions or analysis using
28 specialized traffic models may be required.
- 29 g. Applicants may elect to render fee payment to the County Department of Public Works
30 and Transportation to have the traffic impact study performed by an independent
31 consultant.
- 32 h. Traffic impact studies submitted to the Department of Public Works and Transportation
33 may be reviewed by an independent, qualified professional at the expense of the
34 applicant. The review fee shall not be revenue-producing, but shall be for cost recovery
35 purposes only.

Schedule 70.7.4: Trip Generation Tables

Use	Average Daily Trips (ADT)	AM Peak Hours			P.M. Peak Hours		
		IN	OUT	TOTAL	IN	OUT	TOTAL
Single-family Residence	9.55 /DU	.20	.56	.76	.66	.36	1.02
Apartment	6.47 /DU	.09	.42	.51	.43	.20	.63
Condo/Townhouse	5.86 /DU	.07	.37	.44	.36	.19	.55
Industrial	6.97 per 1000 s.f.	.72	.16	.88	.09	.72	.91

General Office Trip Generation Vehicle Trips per 1000 square feet Gross Floor Area								
1000 s.f. Gross Floor Area	Average Daily Trips (ADT)		A.M. Peak Hours			P.M. Peak Hours		
	Rate	Volume	Rate	IN	OUT	Rate	IN	OUT
<10	24.6	246	3.20	2.85	.35	3.40	.58	2.82
10-<25	19.72	493	2.60	2.31	.29	2.68	.46	2.22
25-<50	16.58	829	2.22	1.98	.24	2.24	.38	1.86
50-<100	14.03	1403	1.90	1.67	.21	1.87	.32	1.55
100-<200	11.85	2369	1.64	1.46	.18	1.56	.27	1.29
200-<400	10.77	3230	1.50	1.34	.17	1.40	.24	1.16
>=400	9.96	3984	1.40	1.25	.15	1.30	.22	1.08

Shopping Center Vehicle Trip Generation Vehicle Trips per 1000 square feet Gross Leasable area								
1000 s.f. Gross Floor Area	Average Daily Trips (ADT)		A.M. Peak Hours			P.M. Peak Hours		
	Rate	Volume	Rate	IN	OUT	Rate	IN	OUT
<10	167.59	1676	4.19	2.64	1.55	15.14	7.57	7.57
25-<50	91.65	4683	2.16	1.36	.8	8.44	4.22	4.22
50-<100	70.67	7067	1.62	1.02	.6	6.56	3.28	3.28
100-<200	54.5	10899	1.22	.77	.45	5.10	2.55	2.55
200-<400	46.81	14043	1.03	.65	.38	4.40	2.2	2.2
>=400	42.02	16809	.92	.58	.34	3.97	1.99	1.99

70.8. Sewerage.

1. *Types of Service.* An adequate public community sewerage system, multi-use sewerage system, or individual sewerage system shall serve the proposed development. New development requiring subdivision or site plan approval within an area designated for service under the Comprehensive Water and Sewerage Plan (i.e., within an S-1, S-3D or S-6D service area) shall be required to connect to the public community sewerage system. The Director may waive or defer this requirement with concurrence from the Metropolitan Commission and from the Office of Environmental Health upon demonstration by the applicant (namely the owner or contract purchaser of or agent for the owner or contract purchaser of subject property) that a connection would not be feasible considering the property's linear distance from existing facilities, topography, environmental constraints, hydraulics, or denied off-site easements. The applicant has the burden of proving that the waiver or deferral is justified based on the facts. Following a waiver or deferral, the resulting private sewer service shall be:

- a. Approved by the Office of Environmental Health;
- b. Designed for future connection to a public system when the Metropolitan Commission determines that a connection is feasible and the private sewer service shall be discontinued and the property shall be connected to the public system; and
- c. In compliance with Section 70.8.3 below.

2. Determining Adequacy.

- a. *Community Sewerage System.* The system shall be considered adequate to accommodate the proposed development if:

- 1 (1) The system meets the requirements of the applicable Maryland Department of
2 the Environment regulations and those of the St. Mary's County
3 Metropolitan Commission; and
- 4 (2) The public sewerage collection system serving the project will be complete and
5 ready for connection and either an existing treatment facility is available to
6 accommodate the volume of sewage to be generated by the project and
7 other developments for which plats have been approved, or a new or
8 expanded facility will be available to accommodate the existing sewage
9 flow and the anticipated sewage flow from the project and other
10 developments for which plats and plans have been approved before the
11 sewage is generated providing the Department of Land Use and Growth
12 Management and the County Attorney have no problem with the change;
13 and
- 14 (3) The Metropolitan Commission has programmed for construction, in a capital
15 improvements program or similar plan, additional treatment and collection
16 capacity necessary in combination with existing treatment and collection
17 facilities to meet projected needs; or
- 18 (4) The applicant agrees to undertake the construction of the sewer system
19 improvements required to meet projected needs; or
- 20 (5) The applicant agrees to contribute an amount acceptable to the Metropolitan
21 Commission to the financing of specific improvements, in accordance with
22 the Comprehensive Water and Sewerage Plan that will meet the need.
- 23 b. Multi-user Sewerage System or Individual Sewerage System. These systems shall be
24 considered adequate if:
 - 25 (1) Connection to a public community sewerage system is not permitted by the
26 Comprehensive Water and Sewerage Plan.
 - 27 (2) The multi-user and individual systems meet applicable Maryland Department of
28 the Environment requirements and the County Health Department
29 regulations.
- 30 3. *Standards.* All future developments shall comply with the provisions and intent of the
31 Comprehensive Water and Sewerage Plan, the St. Mary's County Standard Specifications for
32 Water and Sewerage Construction, and the regulations of the St. Mary's County Health
33 Department and St. Mary's County Metropolitan Commission. The owner, developer, or other
34 applicants for subdivision or site plan approval shall present evidence that the proposed method of
35 sewage disposal is consistent with said plans and directives.

36 **70.9. Water.**

- 37 1. *Types of Service.* Proposed development shall be served by an adequate community water supply
38 system, multi-user water supply system, or individual water supply system.
 - 39 a. **Public Water Systems Required.** All residential subdivisions of 25 lots or more in any
40 zoning district must connect to a public water system. All development in the
41 Development Districts, Town Centers and Village Centers that is designated for service
42 under the Comprehensive Water and Sewerage Plan (i.e., within a W-1, W-3D or W-6D
43 service area) must be served by a public water system of sufficient capacity.
 - 44 b. **Waiver or Deferral.** For development in a Development District, Town Center or Village
45 Center and designated for service under the Comprehensive Water and Sewerage Plan
46 (i.e., within a W-1, W-3D or W-6D service area), the Director may waive or defer the
47 above requirement with concurrence from the Metropolitan Commission and from the
48 Department of Environmental Health if the applicant (namely the owner, contract
49 purchaser or their agent) demonstrates that connecting to or constructing a new water

1 system would not be feasible in consideration of the property's linear distance from
2 existing facilities, topography, environmental constraints, hydraulics, or denied off-site
3 easements. The applicant has the burden of proof that waiver or deferral is justified
4 based on the facts. Following a waiver or deferral, the resulting private water service
5 shall be:

- 6 (1) Approved by the Office of Environmental Health;
- 7 (2) Designed for future connection to a public system when the Metropolitan
8 Commission determines that a connection is feasible and the private water
9 service shall be discontinued and the property shall be connected to the public
10 system; and; and
- 11 (3) In compliance with Section 70.9.3 below.

12 c. Authorization for Use of Wells. Any development not required to connect to a public
13 water system may be served by an individual well.

14 2. Determining Adequacy.

15 a. The water supply shall be considered adequate if it meets the applicable requirements of
16 the Maryland Department of the Environment, the St. Mary's County Health Department,
17 and the St. Mary's County Metropolitan Commission regulations.

18 3. Standards.

19 a. No final plat for a residential subdivision or site plan for commercial or industrial
20 development requiring a ground water appropriations permit shall be approved until the
21 State issues the permit.

22 b. All future developments shall comply with the provisions and intent of the
23 Comprehensive Water and Sewerage Plan, the St. Mary's County Standard Specifications
24 for Water and Sewerage Construction, and the regulations of the Health Department and
25 St. Mary's County Metropolitan Commission. The owner, developer, or other applicants
26 for subdivision or site plan approval shall present evidence that the proposed method of
27 water supply is consistent with these plans and directives.

28 **70.10. Storm Drainage.**

29 1. *Determining Adequacy.* The proposed development shall be served by an adequate storm drainage
30 system. A storm drainage system shall be considered adequate if:

31 a. The on-site drainage system installed by the developer will be capable of conveying
32 through and from the property the design flow of storm water runoff originating in the
33 development during a 2-, 10-, and 100-year flood as determined in accordance with
34 criteria specified in the Stormwater Management Ordinance, in addition to flows from
35 undeveloped land upstream in the natural watershed of the proposed development, flows
36 from existing upstream developments, and designs flows from developments for which
37 plats and plans have been approved, without resulting in erosion, sedimentation or
38 flooding of the receiving channel and downstream properties; and

39 b. The off-site downstream drainage systems are capable of conveying to an acceptable
40 outfall the design flow of storm water runoff originating in the development, as
41 determined in accordance with criteria specified in the Stormwater Management
42 Ordinance, in addition to flows from undeveloped land up-stream in the natural
43 watershed of the proposed development, flows from existing upstream developments, and
44 design flows from developments for which plats have been recorded, without resulting in
45 erosion, sedimentation, or flooding of the receiving channel and down-stream properties.

46 c. Or any proposed development that drains to or across highly erodible soils, the
47 downstream extent of this review shall be to the point at which a channel is found that is
48 adequate to receive the design flow or the level of the tidal floodplain.

- 1 d. For development that does not drain to or across highly erodible soils, the downstream
2 extent of this review shall be:
- 3 (1) To the point at which a channel is found that is adequate to receive the design
4 flow , or
- 5 (2) To the point at which the total drainage area is at least 100 times greater than the
6 area of the proposed development, or
- 7 (3) To the limit of the nearest FEMA mapped 100-year floodplain.
- 8 2. *Off-site Downstream Drainage System Improvements.* A storm drainage system shall be
9 considered adequate if there is compliance with subsection 70.10.1.a and the County has awarded
10 a contract for the construction or improvement of off-site downstream drainage systems necessary,
11 in combination with existing systems, to comply with the standard specified in subsection
12 70.10.1.b and if the construction or improvement of the off-site downstream drainage system is
13 expected to be completed before the issuance of the first building permit for the development or
14 the developer agrees to under-take the construction or improvement of the off-site downstream
15 drainage systems.
- 16 3. *Calculating Runoff.* In determining the adequacy of a storm drainage system, storm water runoff
17 flows from land for which a plat has not been recorded shall be calculated as if the land was
18 developed according to its existing zoning classification and as if storm water management
19 techniques, as may be required by the Stormwater Management Ordinance, have been utilized.
20 Storm water runoff flows from other lands shall be calculated on the basis of whether or not storm
21 water management techniques have been utilized.
- 22 4. *Channel Adequacy.* Adequate channel shall be defined as a natural or man-made channel or pipe
23 that is capable of conveying the runoff from a 10-year storm without overtopping its banks or
24 eroding after development of the site in question, or without causing the flooding of structures
25 from a 100-year storm event.
- 26 **70.11. Schools.**
- 27 1. *Applicability.* The provisions of this Section 70.11 apply to all development except:
- 28 a. Proposed development to be developed exclusively for non-residential uses; or
- 29 b. Proposed development to be developed according to federal regulations restricting
30 occupancy in the dwelling units to persons 55 years or older; or
- 31 c. A proposed residential subdivision that creates not more than two (2) family lots from a
32 parcel or from a lot of record as of September 4, 2008.
- 33 2. Determining Adequacy.
- 34 a. Elementary and secondary schools shall be adequate, as determined by Section 70.11.3,
35 to accommodate the school population to be generated from the proposed development.
- 36 b. The calculation of the school population to be generated by all development subject to
37 such a determination shall use the guidelines for student yield as approved by the Board
38 of County Commissioners.
- 39 3. *Standards.* Schools shall be considered adequate if:
- 40 a. The school population projected to be generated from the proposed development may be
41 enrolled without the enrollment exceeding:
- 42 (1) One-hundred and seven percent (107%) percent of the cumulative state-rated
43 capacity of elementary schools within the north or south attendance zones
44 established by resolution by the Board of County Commissioners within
45 which the proposed development is to be located, or

1 (2) One-hundred and nine percent (109%) of the cumulative state-rated capacity of
2 all middle schools in the County, or

3 (3) One-hundred and sixteen percent (116%) of the cumulative state-rated capacity
4 of all high schools in the County;

5 The calculation of available state rated capacity shall include such capacity of existing
6 schools, plus the proposed capacity of additional schools and school improvements that
7 are programmed within the first three years of the Capital Improvements Program, and
8 sites for such additional schools are owned or controlled by the County or by the Board
9 of Education; and

10 b. Where the development proposal is for phased construction, adequate capacity is
11 projected to be available, pursuant to school enrollment projections for the schools
12 serving the proposed development before each phase has begun.

13 **70.12. Fire Prevention and Suppression.**

14 1. These provisions shall be administered in conjunction with the St. Mary's County Metropolitan
15 Commission and County Fire Board.

16 2. *Determining Adequacy.* The proposed development shall be adequately served by fire suppression
17 facilities. The specific requirements depend on whether the proposed development will be served
18 by a public water system or private wells. A proposed development shall be considered to be
19 adequately served by fire suppression facilities if according to the following requirements:

20 a. *Public Water.* The proposed development shall be considered to be adequately served by
21 fire suppression facilities if:

22 (1) It is served at the time of issuance of the first occupancy permit by an approved
23 public (central) water supply system or multi-user water supply system
24 capable of providing fire flow in accordance with the St. Mary's County
25 Metropolitan Commission Standards and Specifications for Water and
26 Sewage Construction and the St. Mary's County Building Code and
27 consistent with the County Comprehensive Water and Sewerage Plan for
28 that type of development; or

29 b. *Private Wells.* The proposed development shall be considered to be adequately served by
30 fire suppression facilities if:

31 (1) Fire flow and storage capabilities are installed in accordance with NFPA 1142
32 Standard on Water Supplies for Suburban and Rural Fire-fighting, when
33 buildings are “grouped” as defined by NFPA 1142.

34 (2) Water for fire suppression shall be provided in accordance with NFPA 1142
35 Standard on Water Supplies for Suburban and Rural Fire Fighting. The
36 water source shall be provided, unless specific exemption is given for the
37 installation of a sprinkler system by the fire department in whose area the
38 premises lie or the amount of water carried on fire apparatus responding on
39 the first alarm is greater than required by the standard. When a static water
40 source is approved a dry hydrant with all weather access shall be provided
41 to facilitate the fire department taking draft from the source. Water for fire
42 suppression shall be available:

43 (a) Within 1,000 feet of all single buildings under 12,000 sq. ft. area and

44 (b) On site for all single buildings over 12,000 sq. ft. area.

1 3. Fire protection measures shall be required to progress with construction in planned groups of
2 buildings in accordance with NFPA 1141, Standard for Fire Protection in Planned Building
3 Groups.

4 4. Private fire service mains and their appurtenances shall be installed in accordance with NFPA 24
5 Standard for Installation of Private Fire Service Mains and Their Appurtenances.

6 **70.13. Update of Standards, Criteria, and Procedures for Adequate Public Facilities Analyses.**

7 The County Commissioners shall consider revisions to adopted standards, criteria, and procedures for
8 adequate public facilities analyses on at least a biannual basis. As part of this process, the County
9 Commissioners shall hold a public hearing prior to the adoption of additional specific standards, criteria,
10 and procedures for determining the adequacy of public facilities. Such a hearing shall comply with the
11 requirements and procedures for text amendments to this Ordinance.

12 **70.14. Grandfathering.**

13 All complete applications for minor residential subdivisions submitted to the TEC prior to September 4,
14 2008 are exempt from the school adequacy requirements of this chapter, as are all approved Planned Unit
15 Developments (PUDs) that have satisfied APF requirements.

1 **CHAPTER 71 RESOURCE PROTECTION STANDARDS**

2 Sections:

- 3 71.1 Purpose.
- 4 71.2 Environmental Review and Environmental Permits.
- 5 71.3 General Site Development Standards.
- 6 71.4 Stream Resource Protection Standards.
- 7 71.5 Wetlands and Hydric Soils Resource Protection Standards.
- 8 71.6 Floodplain Resource Protection Standards.
- 9 71.7 Steep Slopes and Erodible Soils Resource Protection Standards.
- 10 71.8 Habitat Protection Standards.
- 11 71.9 Standards for Shoreline Resources.

12 **71.1. Purpose.**

- 13 1. The purposes of this chapter are to:
 - 14 a. Protect the public health, safety, and welfare by maintaining the water and land resources
 - 15 that provide natural functions to prevent loss of land and topsoil to erosion, filter
 - 16 pollution, nutrient and sediment runoff and mitigating effects of flooding.
 - 17 b. Minimize the impacts of surface land use on water resources and conserve fish, wildlife,
 - 18 and plant habitats while accommodating continued growth.
 - 19 c. Protect the County's most sensitive and diverse ecosystems.
 - 20 d. Respect natural constraints and limitations as a primary component of development
 - 21 design.
 - 22 e. Enhance and protect the quality of the County's water resources by controlling soil
 - 23 erosion and runoff to the maximum extent practicable.
 - 24 f. Reduce sources of pollution to meet Chesapeake Bay water quality standards.
 - 25 g. Protect the County's ground-water recharge areas and potential surface water
 - 26 impoundment sites.

27 **71.2. Environmental Review and Environmental Permits.**

- 28 1. An environmental review process is hereby established for the following regulated activities:
 - 29 a. Land disturbance that requires a building or grading permit.
 - 30 b. Building or sediment and erosion control or grading permit.
 - 31 c. Application for site plan or subdivision approval. or;
 - 32 d. Application for any Critical Area permit.
- 33 2. Exemptions.
 - 34 a. Forestry operations conducted outside the Critical Area are exempt from the
 - 35 environmental reviews of this chapter.
 - 36 b. Agricultural operations shall submit evidence of a currently approved and implemented
 - 37 State Water Quality and Soil Conservation Plan (Farm Plan) and/or current Nutrient
 - 38 Management Plan in order to be entitled to an exemption from the 15 percent
 - 39 afforestation requirement in the Critical Area and to obtain exemptions from certain
 - 40 performance standards of this Ordinance.

- 1 3. Required Referral Comments.
- 2 a. Comments from all relevant federal and state agencies are required as part of the local
- 3 environmental review process. These agencies may include:
- 4 (1) Maryland Department of the Environment (MDE).
- 5 (2) Maryland Department of Natural Resources (DNR).
- 6 (3) Maryland Department of Agriculture (MDA).
- 7 (4) The local Soil Conservation District office (SCD).
- 8 (5) The U. S. Fish and Wildlife Service (USFWS).
- 9 (6) The U. S. Army Corps of Engineers (ACOE).
- 10 b. The County shall send copies of applications for all developments, subdivisions, and site
- 11 plans wholly or partially within the Critical Area to the Critical Area Commission in
- 12 accordance with the provisions of COMAR 27.01.01.03.
- 13 4. *Application Requirements.* A sensitive areas plan shall show a vicinity map, property boundaries,
- 14 existing and proposed topography using minimum five-foot contours, existing development,
- 15 proposed development and sensitive areas including:
- 16 a. Tributary streams and their buffers delineated from the top of the normal bank at each
- 17 side of the stream, including:
- 18 (1) Outside the Critical Area measured 50 feet from each bank for intermittent
- 19 streams, or
- 20 (2) For all perennial streams and for intermittent streams inside the Critical Area
- 21 measured 100 feet from each bank and expanded, if necessary, in
- 22 accordance with the Buffer expansion provisions of 71.8.3.a.(1).
- 23 b. Jurisdictional non-tidal wetlands delineated based on 1987 ACOE manual plus a 25-foot
- 24 buffer delineated from edge of the non-tidal wetlands; and
- 25 c. Wetlands of special state concern plus their 100-foot buffers delineated from the edge of
- 26 such a wetland.
- 27 d. A 100-year floodplain, floodway, and coastal high hazard area boundary using the
- 28 identified 1929 NGVD contour elevation provided on the official floodplain maps.
- 29 e. Hydric soils, soils with hydric inclusions, highly erodible soils (k value of .35 or more).
- 30 (1) Slopes of 15 percent to 25 percent gradient; and
- 31 (2) Slopes of 25 percent gradient or greater.
- 32 f. Chesapeake Bay Critical Area boundary.
- 33 (1) The 100-foot Critical Area Buffer expanded, if necessary, for contiguous steep
- 34 slopes, hydric and highly erodible soils, and non-tidal wetlands in
- 35 accordance with the provisions of 71.8.3.a.(1).
- 36 g. Habitat Protection areas including:
- 37 (1) Forest interior dwelling species habitat; and
- 38 (2) Habitats of rare, threatened, and endangered species; and
- 39 (3) Colonial water bird nesting sites; and
- 40 (4) Water fowl staging and concentration areas; and
- 41 (5) Anadromous fish propagation waters.
- 42 h. Natural Heritage areas.

- 1 i. Forest and woodland cover including areas of mature and successional forest,
2 shrub/scrub vegetation, and developed woodland by indicating:
- 3 (1) Forest types (deciduous, conifer, or mixed deciduous/conifer) with predominant
4 canopy and understory species identified; and
- 5 (2) Specimen trees; and
- 6 (3) Individual trees and shrubs in open areas.

7 **71.3. General Site Development Standards.**

- 8 1. *Exempt Activities.* Development activities are prohibited within a Sensitive Area except that the
9 following uses may be allowed if minimized and mitigated according to the following provisions:
- 10 a. Local distribution lines for utilities to individual lots recorded after the effective date of
11 this Ordinance.
- 12 b. Access roads or driveways to individual lots recorded under this Ordinance.
- 13 c. Staging, storage, and temporary parking areas.
- 14 d. Stormwater management devices.
- 15 2. Only the activities listed above may be permitted within Sensitive Areas that are located outside
16 the Critical Area, and only if the following standards are met:
- 17 a. A single-use crossing or access easement for new or improved structures for access,
18 public transportation facilities, or utilities shall be approved when:
- 19 (1) The location is essential for access and continuity; and
- 20 (2) There are no feasible alternatives; and
- 21 (3) Disturbance is the minimum necessary to install and maintain utilities or access
22 and the site is otherwise returned to and maintained in its natural state; and
- 23 (4) Disturbance is minimized through 90-degree crossings and best available
24 technology; and
- 25 (5) In forested areas;
- 26 (a) Shared road and utility easements are utilized to reduce forest
27 fragmentation; and
- 28 (b) Utilities to serve individual houses are routed within the clearing for the
29 driveway or in existing cleared areas.
- 30 b. Stormwater management facilities, sediment control measures, and other measures
31 required for a local, state, or federal permit may be approved if a feasibility analysis
32 clearly demonstrates that no other feasible alternative exists.
- 33 c. Environmental restoration and stabilization activities (including structural and non-
34 structural best management practices (BMP's)) may be undertaken to prevent degradation
35 or to restore natural functions of sensitive areas resources under the direction of the
36 Department of Natural Resources, Army Corps of Engineers, the Maryland Department
37 of the Environment, or the Soil Conservation District: and
- 38 d. Public works projects may be undertaken to eliminate threats to life or property from
39 flooding or to provide agricultural or drinking water supply under the direction of the
40 Department of Natural Resources, Army Corps of Engineers, Maryland Department of
41 the Environment or the Soil Conservation District.
- 42 e. Silvicultural and horticultural activities may be undertaken if they are part of an approved
43 forest management plan and if they are undertaken to:

- 1 (1) Preserve the forest from extensive pest or disease infestation or threat from fire;
- 2 or
- 3 (2) Maintain the health of the forest or individual trees, shrubs, and plants.

4 **71.4. Stream Resource Protection Standards.**

5 1. *Applicability.* The standards of this section shall be applied to protect:

- 6 a. Perennial streams as designated on current edition of United States Geological Survey
- 7 7.5-minute quadrangle maps or as modified by presentation of site survey or engineering
- 8 data that delineates stream presence and location; and
- 9 b. Intermittent streams as designated on current edition of United States Geological Survey
- 10 7.5-minute quadrangle maps of the area or as modified by presentation of site survey or
- 11 engineering data that delineates stream presence and location.

12 2. Site Development Standards for Streams.

13 a. A buffer shall be preserved along each side of perennial or intermittent streams measured

14 from the top of the bank of the stream as follows:

- 15 (1) Outside the Critical Area measured 50 feet from each bank for intermittent
- 16 streams, or
- 17 (2) For all perennial streams and for intermittent streams inside the Critical Area
- 18 measured 100 feet from each bank expanded, if necessary, in accordance
- 19 with the provisions of 71.8.3.a.(1).

20 b. Natural vegetation shall be maintained in stream buffer areas. Where natural vegetation

21 does not exist, and conditions for replanting are suitable, high priority shall be given to

22 planting vegetation in the buffer area to stabilize banks and to enhance resource

23 protection and preservation.

24 c. All development activities in the LDA and RCA that must cross or affect streams shall be

25 designed to:

- 26 (1) Reduce flood frequency and severity that are attributable to development; and
- 27 (2) Retain tree canopy so as to maintain stream water temperature within normal
- 28 variation; and
- 29 (3) Provide a natural substrate for streambeds; and
- 30 (4) Minimize adverse water quality and quantity impacts of stormwater.

31 d. The buffer within floodplains shall be maintained in natural vegetation to prevent erosion

32 in this area. Where natural forest vegetation does not exist along the water course, and

33 conditions for replanting are suitable, high priority shall be given to planting trees in the

34 setback area to stabilize bands and to enhance aquatic resources.

35 e. Channelization or other physical alterations shall not change the course or circulation of

36 the stream so as to interfere with fish movement.

37 f. Rip-rap or other artificial surfaces shall not be installed in stream channel or stream

38 buffers as part of a development application unless the applicant has provided evidence

39 that water quality and fisheries habitat can be improved.

40 g. Existing vegetation shall be maintained to the extent practicable on the developed site

41 during construction to mitigate potential adverse impacts to watersheds within the

42 Critical Area with drain to androgenous fish spawning streams.

- 1 **71.5. Wetlands and Hydric Soils Resource Protection Standards.**
- 2 1. *Applicability.* The standards of this section shall be applied to protect:
- 3 a. Tidal wetlands as officially mapped by the Department of Natural Resources (DNR), or
- 4 as field delineated onsite and confirmed by the Tidal Wetlands Division of Maryland
- 5 Department of the Environment (MDE) or the U.S. Army Corps of Engineers; and
- 6 b. Non-tidal wetlands as delineated using methods established in the Federal Manual for
- 7 Identifying and Delineating Jurisdictional Wetlands, 1987.
- 8 (1) A 25-foot buffer shall be preserved from the edge of non tidal wetlands and shall
- 9 be expanded up to 100 feet to include areas of adjoining hydric soils.
- 10 c. Wetlands of Special State Concern as determined by DNR.
- 11 2. Site Development Standards for Wetlands Resources.
- 12 a. A 100-foot buffer shall be preserved from the landward edge of tidal wetlands and shall
- 13 be expanded, if necessary, in accordance with the provisions of 71.8.3.a. (1).
- 14 b. A 25-foot buffer shall be preserved from the edge of non-tidal wetlands and shall be
- 15 expanded up to 100 feet to include areas of adjoining hydric soils.
- 16 c. A 100-foot buffer shall be preserved from the edge of wetlands of special state concern.
- 17 d. For projects in the Critical Area, new development activities may not be permitted in the
- 18 100-Buffer and expanded Buffer unless the project is a water-dependent facility or a
- 19 variance is granted in accordance with the provisions of Chapter 24 and the mitigation
- 20 requirements below.
- 21 3. Mitigation.
- 22 a. Mitigation shall be required to offset unavoidable and necessary impacts to the wetlands
- 23 set forth above.
- 24 (1) The plan must specify mitigation measures that will provide water quality
- 25 benefits and plant and wildlife habitat equivalent to the wetlands altered and
- 26 shall be accomplished, to the extent possible, on-site or near the affected
- 27 wetland. This may include payment in lieu of on-site mitigation.
- 28 **71.6. Floodplain Resource Protection Standards.**
- 29 1. *Applicability.* The standards of this section shall be applied to protect the 100-year floodplain
- 30 including, but not limited to, non-tidal floodplains, tidal floodplains and Coastal High Hazard
- 31 Areas.
- 32 2. Site Development Standards for Floodplain Resources.
- 33 a. No building or grading permit for work within a floodplain shall be issued before the
- 34 applicant has obtained a waterway construction permit from the appropriate state or
- 35 federal authorities.
- 36 b. Development in floodways is prohibited except that additions to existing structures may
- 37 be approved according to the provisions of Section **Error! Reference source not found.**
- 38 c. A 50-foot buffer shall be preserved around all floodplains. This buffer may be reduced to
- 39 25 feet when a water quality protection plan, using approved BMPs, is proposed and,
- 40 later, implemented.
- 41 d. Building sites on all new lots shall be outside the 100-year floodplain except for water
- 42 dependent facilities.
- 43 e. All floodplains, or portions of floodplains, on a project site shall have a floodplain
- 44 easement established around the floodplain limits, as established by the FEMA map, or
- 45 floodplain calculations. This easement shall be shown on the plats and plans and shall be

designated as a “floodplain and storm drainage easement.” The following note also must be clearly shown: “No improvement shall be made in the floodplain easement shown hereon without specific authorization from St. Mary’s County.”

- f. This easement shall be tied to the site boundaries in a manner that permits field verification.

71.7. Steep Slopes and Erodible Soils Resource Protection Standards.

- 1. *Applicability.* The standards of this section shall be applied to protect:
 - a. Slopes on all soil types with 25 percent or more gradient, slopes on highly erodible soils (as defined in Table 71.7.1) with 15 percent to 25 percent gradient; and
 - b. Slopes on stable soils with 15 percent to 25 percent gradient contiguous to the required expansion of the 100-foot Critical Area Buffer pursuant to Section 71.8.3.
 - c. All soils on 15 percent or greater slopes in the Chesapeake Bay Critical Area.
 - d. All soils with an erodibility (K) factor of 0.35 or more.

Table 71.7.1: Highly Erodible Soils in St. Mary’s County

	Symbols	Natural Erosiveness (k factor)
Caroline silt loam	CaC3, CaD2, CaD3	0.43
Croom gravelly sand loam	CrD2, CrD3	0.43
Evesboro-westphalia complex	EwC2, EwD2, EwE2	0.49
Westphalia fine sandy loam	WeB2, WeC2, WeC3	0.49

- e. All lands with hydric soils and soils with hydric inclusions.

Table 71.7.1.e: Hydric Soils and Soils with Hydric Inclusions in St. Mary’s County

	SYMBOLS	DRAINAGE CHARACTERISTIC	
HYDRIC SOIL MAP UNITS			
Alluvial land, wet	Ad	Generally indicates non-tidal wetlands	
Beaches	Be	tidal wetland	
Bibb silt loam	Bm	poorly drained	
Elkton silt loam	Ek	poorly drained	
Fallsington sandy loam	Fs	poorly drained	
Leonardtown silt loam	Le	poorly drained	
Othello fine sandy loam	On	poorly drained	
Othello silt loam	Ot	poorly drained	
Tidal Marsh	Tm	tidal wetland	
MAP UNITS WITH HYDRIC SOIL INCLUSIONS		HYDRIC COMPONENTS	LOCATION OF HYDRIC SOILS
Beltsville silt loam (0 to 2% slopes)	B1A	Unnamed poorly drained soils	small depression areas
Klej loamy sand (0 to 5% slopes)	Kz	Poorly drained inclusions	depressions, flat low areas

- f. Significantly eroding areas and shorelines.

2. Exemptions.

- a. Isolated areas of steep slopes having a gradient of between 15 percent and 25 percent may be exempted from the standards of this Section, provided they are outside the Critical Area, or are less than 10,000 square feet in area, irrespective of property boundaries, and are not located in or within 50 feet of a stream buffer.
- b. Installation of best management practices (BMPs) for protection of slopes, and grade stabilization structures or shore erosion control measures may occur in areas with steep slopes provided the measures are recommended, reviewed and approved by the Soil Conservation District.

- 1 c. Installation of shore erosion control measures may occur in areas with steep slopes
2 provided the measures are recommended, reviewed, and approved by the Soils
3 Conservation District and the Maryland Department of the Environment or the U.S. Army
4 Corps of Engineers.
- 5 d. Areas of hydric soils or inclusions of hydric soils that are not associated with tidal, non-
6 tidal wetlands, or vernal pools.
- 7 3. Site Development Standards for Protection of Lands with Steep Slopes.
- 8 a. Disturbance to slopes in excess of 25 percent is prohibited in a Rural Preservation
9 District.
- 10 b. The clearing of natural vegetation shall be minimized and shall use the best available
11 technology to control erosion and sedimentation to reduce and/or mitigate the potential
12 associated water quality impacts.
- 13 c. In areas of slopes with greater than 15 percent grade, the project shall:
- 14 (1) Maintain or improve the stability of the slope as determined by an engineered
15 site design approved by the SCD prior to grading or construction anywhere
16 on the site; and
- 17 (2) Maintain or, if possible, improve the quality of runoff entering the Chesapeake
18 Bay and its tributaries.
- 19 d. Disturbance to slopes greater than 15 percent in the Critical Area may be approved only if
20 the applicant can demonstrate that the disturbance is a best management practice and is
21 the only effective way to maintain or improve the stability of the slope. Otherwise,
22 disturbance to slopes of 15 percent or greater in the Critical Area are required to obtain a
23 variance.
- 24 e. For slopes greater than 6 percent, the 25-foot vegetated filter strip required for
25 agricultural uses in the 100-foot Critical Area buffer must be expanded four feet for every
26 1 percent slope.
- 27 f. Areas along shorelines and streams where slope is within 20 degrees of vertical with a
28 height in excess of 20 feet are at risk for erosion/collapse and shall be subject to a
29 minimum 100-foot buffer that shall be:
- 30 (1) Expanded by three feet for each one foot of height in excess of 20 feet., or
31 (2) Protected by an approved shore erosion protection measure at the toe of the cliff
32 designed for the 45-year storm event and installed prior to construction of
33 principal structures on the site.
- 34 g. Grading of a site to cut or fill areas of steep slopes within 50 feet of streams is prohibited
35 within stream buffers and within the Critical Area.
- 36 4. Site Development Standards for Protection of Highly Erodible Soils.
- 37 a. The following best management practices shall be used on sites with the proposed
38 disturbance of highly erodible soils as determined by the SCD through environmental
39 review:
- 40 (1) Infiltration of run-off on-site (basins, trenches, dry ponds); or
41 (2) Flow attenuation by use of open vegetated swales and natural depressions; or
42 (3) Stormwater retention structures; or
43 (4) Stormwater detention structures.
- 44 b. Development proposals located on lands in the Patuxent River watershed shall be
45 required to design and implement the following additional measures to prevent severe

1 erosion of highly erodible soils located on and off-site from the effects of altered of
2 drainage patterns and discharge of concentrated runoff:

3 (1) Any concentration of runoff that will flow across highly erodible soils located
4 between the point of concentration of the runoff to the point of entry of the
5 runoff into a perennial stream or other waters of the state shall be managed
6 using both structural and nonstructural best management practices (BMPs)
7 on-site and off-site.

8 (2) Provisions for access, installation, and maintenance of the BMPs shall be
9 required for both on site and off-site measures.

10 c. Wetland or stream buffer areas shall be expanded to include adjacent areas of highly
11 erodible soils.

12 **71.8. Habitat Protection Standards.**

13 1. The following areas shall be designated as habitat protection areas:

14 a. The Chesapeake Bay Critical Area 100 foot buffer.

15 b. Forest interior dwelling species (FIDS) habitat.

16 c. Habitats of rare, threatened, and endangered species or species in need of conservation.

17 d. Colonial water bird nesting sites.

18 e. Historic waterfowl concentration areas.

19 f. Designated Natural Heritage Areas, areas identified by state and federal agencies as
20 important plant or wildlife habitat areas, and areas of plant and wildlife habitat of local
21 significance.

22 g. Anadromous fish propagation waters.

23 2. *Forest Interior Dwelling Species (FIDS) habitat*, colonial water bird nesting sites, historic
24 waterfowl staging and concentration areas, riparian forests, important habitats designated by State
25 or federal agencies, and plant and wildlife habitats of local significance shall be conserved and
26 protected in accordance with the provisions of COMAR 27.01.09.04.

27 3. *The 100-Foot Critical Area Buffer*. A100-foot Critical Area buffer shall be established a minimum
28 of 100-feet landward from the mean high water line of tidal waters, tidal wetlands and tributary
29 streams in the Critical Area. The Buffer shall be established or managed to perform the functions
30 set forth in COMAR 27.01.09.01.B.

31 a. Modifications to the 100 foot Buffer:

32 (1) The 100-foot buffer shall be expanded to include contiguous steep slopes, hydric
33 soils whose development or disturbance may impact streams, wetlands or
34 other aquatic environments, and highly erodible soils pursuant to Section
35 71.7.1. In the case of contiguous slopes of 15 percent or greater, the Critical
36 Area Buffer width shall be increased four (4) feet for every 1 percent of
37 slope or to the top of the slope, whichever is greater in extent. Buffer
38 expansion for steep slopes is not required when the slopes are wholly within
39 the Critical Area Buffer.

40 (2) The 100-foot buffer will not be required for agricultural drainage ditches when
41 the adjacent agricultural land has in place best management practices as
42 required by Chapter 73, Agricultural Resources in the Critical Area.

43 b. Regulation of Activities in the Buffer.

44 (1) No new impervious surfaces, sewage reserve easements, septic system,
45 development activities, mining or related facilities shall be permitted in
46 the100-foot buffer, unless:

- 1 (a) The activity is a water dependent facility pursuant to Section 41.8; or
- 2 (b) The site is within a designated Buffer Management Overlay (see
- 3 Section 41.7); or
- 4 (c) The applicant obtains a variance pursuant to Article 2.
- 5 (2) See Chapter 73 for regulations for agricultural activities in the Critical Area
- 6 Buffer.
- 7 (3) The commercial harvesting of trees within the Critical Area buffer shall be
- 8 allowed in accordance with Chapter 72, Forest and Woodland Resources in
- 9 the Critical Area.
- 10 (4) Installation of shore erosion control measures and other permitted shoreline
- 11 protections within the Critical Area buffer shall be allowed only in
- 12 accordance with Section 71.9.
- 13 c. *Guidelines for Maintaining Vegetation in the Buffer.* Natural vegetation shall be
- 14 maintained or enhanced in the Critical Area buffer subject to the following:
 - 15 (1) Planting diverse non-invasive vegetation in the buffer is encouraged and does
 - 16 not require a permit.
 - 17 (2) An existing grandfathered lot without natural vegetation in the Buffer may be
 - 18 retained in its current state.
 - 19 (3) Areas, including fallow agricultural fields, that have been maintained for five or
 - 20 more years such that woody vegetation (tree seedlings, saplings, shrubs and
 - 21 native vines) is growing on the site, shall be considered to be forest and
 - 22 shall be subject to the Forest and Woodland Protection Standards set forth in
 - 23 Chapter 72.
 - 24 (4) lands are proposed to be converted to other uses, the Buffer shall be established.
 - 25 Where agricultural use of land within the Critical Area Buffer ceases or and
 - 26 the In establishing the Buffer, management measures shall be undertaken to
 - 27 provide forest vegetation that assures the Buffer functions as set forth in the
 - 28 policies embodied in the regulations of this Chapter.
 - 29 (5) For any development or disturbance in the buffer, a planting agreement shall be
 - 30 executed in accordance with the provisions of Chapter 72, Forest and
 - 31 Woodland Resources in the Critical Area. Planting shall be required to be
 - 32 placed in the buffer as a condition of approval for a Buffer variance or other
 - 33 approved disturbance in the buffer.
 - 34 (6) An environmental permit is not required to:
 - 35 (a) Remove dead or dying trees that are in danger of falling and causing
 - 36 damage to structures, or resulting in accelerated shore erosion. Trees
 - 37 not meeting this standard shall be left standing for their habitat value;
 - 38 or
 - 39 (b) Prune trees as necessary to protect or stabilize the shoreline and to
 - 40 provide daylight to marsh grasses.
 - 41 (7) Individual trees may be harvested for personal use provided the cutting does not
 - 42 impair the water quality or existing habitat value or other buffer functions as
 - 43 set forth in COMAR 27.01.09.01.B, and a planting agreement is
 - 44 implemented to replace each tree harvested.
 - 45 (8) Horticultural practices may be used to maintain the health of individual trees.
 - 46 (9) Cutting of trees or removal of natural vegetation may be permitted where
 - 47 necessary to provide access to private piers, or to install or construct a shore

- 1 erosion protection device or measure, or a water-dependent facility,
2 providing the device, measure, or facility has received all necessary state
3 and federal permits.
- 4 (10) Other cutting techniques may be undertaken under the advice and guidance of
5 the Maryland Departments of Agriculture and Natural Resources when
6 recommended by the TEC to preserve the forest from extensive pest or
7 disease infestation or threat from fire.
- 8 d. *Buffer Management Plans.* A Buffer Management Plan shall be required to establish the
9 procedures and proposed planting for all alterations and cutting in the Buffer,
10 development activities in the Buffer, and establishment of a vegetated buffer in areas of
11 new development that are presently without a Buffer. A Buffer Management Plan shall
12 be approved by the Department of Land Use and Growth Management and may include,
13 but is not limited to, Planting Agreements, landscape plans, bonding instruments, and or
14 fees-in-lieu agreements.
- 15 4. Forest Interior Dwelling Species (FIDS) Habitat.
- 16 a. These habitats include:
- 17 (1) Forests at least 50 acres in size with 10 or more acres of forest interior habitat
18 (i.e. forest width greater than 300 feet from the nearest forest edge), where
19 the majority of the forest tract should be dominated by pole-sized or larger
20 trees (5 inches or more in diameter at breast height), or have a closed
21 canopy; and
- 22 (2) Riparian forests dominated by trees five inches or more at breast height, with a
23 closed canopy, that are of at least 50 acres in size with an average total
24 width of at least 300 feet.
- 25 (3) Other forests, regardless of size, that are utilized by forest interior dwelling
26 species of birds and other wildlife may qualify.
- 27 b. For the purposes of determining forest size above, the size of the tract is based on entire
28 forest area regardless of Critical Area boundary or property boundaries. Two forest tracts
29 are unconnected when they are separated by existing nonforested habitat that creates a
30 permanent 30-foot break in forest canopy.
- 31 c. The standards of this section shall be applied to areas meeting the above criteria unless
32 the applicant demonstrates, using methods approved by the Department of Natural
33 Resources, that FIDS are not present on the site.
- 34 d. *Regulation of Activities in FIDS Habitat.* The following habitat protection and
35 management measures are required for development activities regulated by this chapter if
36 FIDS are found or are assumed to be present on a site because the area meets the criteria
37 set forth above:
- 38 (1) Applicants for projects in the Critical Area are required to use and follow the
39 guidance publication on forest interior dwelling birds adopted by the
40 Chesapeake Bay Critical Area Commission in June 2000 as amended.
- 41 (2) Activities having an adverse impact upon habitats regulated under this chapter
42 (e.g., use of off-road vehicles, intensive public use, timber harvesting, or
43 development activities) shall be minimized during the April-August
44 breeding season. This time restriction may be expanded from February to
45 August if certain early-nesting FIDS are present.
- 46 (3) Unavoidable development activities or other disturbances during the May-
47 August breeding season shall be focused on the periphery of the area (i.e.
48 roads, utility lines, corridors and structures).

- 1 (4) Continuous cover of branches and foliage formed by the crowns of adjacent
2 trees (forest canopy) and trees and shrubs underneath the canopy
3 (understory vegetation) should be retained, insofar as practicable.
- 4 (5) Standing dead trees (snag trees) should be retained for their value as bird nesting
5 and feeding habitat insofar as possible.
- 6 (6) The creation of small clearings that result in additional forest edge habitat
7 should be minimized.
- 8 (7) Where forest must be cleared, the cleared forest should be allowed or
9 encouraged to return to native vegetation.
- 10 (8) Disturbances adjacent to or near the Maryland Green Infrastructure network as
11 prepared by the Department of Natural Resources in the County should be
12 minimized insofar as possible.
- 13 e. *Regulation of Timber Management for FIDS Habitat.* The following techniques, or
14 approved modification of the following techniques, shall be observed for timber harvests
15 and shall be incorporated into forest management plans to maintain or improve habitat for
16 FIDS:
 - 17 (1) Manage stands for regeneration of both hardwoods and pines.
 - 18 (2) Maintain four to eight snags per acre (especially snags of eight inches in
19 diameter at breast height (DBH) or greater) in areas where seed tree, and
20 shelter wood harvesting occurs and, where possible, retain snags in clumps
21 of three to four.
 - 22 (3) Maintain at least 30 percent canopy cover in areas to be thinned.
 - 23 (4) Do not create any permanent forest openings. and
 - 24 (5) Wherever possible, design the shape of harvest areas to maximize the acreage of
25 uncut forest interior habitat.
 - 26 (6) Retain native broad-leafed evergreen shrubs and trees whenever these are
27 present
- 28 5. Site Development Standards for Protection of Rare, Threatened and Endangered Species Habitat.
 - 29 a. *Regulation of Activities Affecting Rare, Threatened And Endangered Species Habitats.*
30 The following measures are required for development activities regulated by this chapter
31 for areas identified under Section 10-2A-01 et seq. of the Natural Resources Article of the
32 Maryland Annotated Code as habitat for rare threatened or endangered species:
 - 33 (1) Verification of the presence or absence of such habitats, the extent of the habitat
34 present, and the measures to be taken to protect the habitat shall be set forth
35 in a development application, with the concurrence of Maryland
36 Department of Natural Resources and the U.S. Fish and Wildlife Service.
- 37 6. Site Development Standards for Protection of Colonial Water Bird Nesting Sites and Waterfowl
38 Staging and Concentration Areas.
 - 39 a. The following measures are required for all development activities regulated by this
40 section on lands utilized by colonial water birds and waterfowl for nesting and staging
41 areas, as mapped by the Maryland Department of Natural Resources:
 - 42 (1) The applicant will be required to establish buffer areas for colonial water bird
43 (including, but not limited to, heron, egret, tern, and glossy ibis) nesting
44 sites so that these sites are protected from the adverse impacts of
45 development activities and from disturbance during breeding season.

- 1 (2) New water-dependent facilities shall be located so as to prevent disturbance to
2 colonial nesting sites and historic aquatic staging and concentration areas
3 for waterfowl.
- 4 7. Site Development Standards for Protection of Natural Heritage Areas and Significant Habitat
5 Areas.
- 6 a. Protect natural heritage areas from alteration due to development activities or cutting or
7 clearing so that the structure and species composition of the areas are maintained.
- 8 (1) The applicant shall contact the Maryland Department of Natural Resources to
9 identify the protection measures recommended. The applicant shall provide
10 copies to the Department of Land Use and Growth Management of
11 correspondence with DNR confirming the presence or absence of impact on
12 the identified areas and the recommendations for protection.
- 13 (2) Within the Critical Area, the applicant shall adhere to all recommendations.
- 14 (3) Outside of the Critical Area, the applicant shall minimize disturbance by
15 following the recommendations to the extent possible:
- 16 (a) At a minimum, applicants shall be required to cluster development, to
17 minimize clearing, to establish buffers or protection easements (having
18 a width as recommended by DNR) between development and areas of
19 natural heritage and/or significant habitat, and to install best
20 management practices for water quality protection.
- 21 (b) When development activities, or cutting and clearing of trees, occurs in
22 forested areas, corridors of existing forest or woodland shall be
23 maintained to provide connections between wildlife habitat areas. “The
24 Maryland Green Infrastructure” network prepared by the Department of
25 Natural Resources shall be consulted and utilized to identify areas, at a
26 minimum, where these corridors are to be maintained.
- 27 8. Site Development Standards for Protection of Anadromous Fish Habitat.
- 28 a. Areas designated by the Maryland Department of Natural Resources as anadromous fish
29 propagation waters shall be protected in accordance with COMAR 27.01.09.05.B. as
30 follows:
- 31 (1) Installation or introduction of concrete riprap or other artificial surfaces on the
32 bottom of natural streams is prohibited unless it can be demonstrated that
33 water quality and fisheries habitat can be improved by doing so.
- 34 (2) The following activities are prohibited:
- 35 (a) Channelization or other physical alterations that may change the course
36 or circulation of a stream and interfere with the movement of fish.
- 37 (b) Construction or placement of dams or other structures that would
38 interfere with or prevent the movement of spawning fish or larval forms
39 in streams is prohibited. The removal of existing barriers should be
40 effected if practical.
- 41 (c) Non-emergency construction, repair or maintenance activities
42 associated with bridges, utilities or roads, or other stream crossings,
43 which occur in-stream or impact in-stream conditions shall be
44 prohibited between March 1 and May 15.
- 45 **71.9. Standards for Shoreline Resources.**
- 46 1. Each legally subdivided lot or parcel of record shall be limited to one pier meeting the criteria of
47 Section 51.3.110 except that piers, pilings and boat ramps are prohibited on individual lots in

- 1 subdivisions for which community piers or community boat ramps are currently, or planned to be,
2 provided.
- 3 2. Any pier and/or boat ramp, in existence legally on the effective date of this Ordinance may
4 continue in use. Expansion, substantial improvement or alteration of these existing structures shall
5 be in compliance with the regulations of this Ordinance.
- 6 3. Outside of the IDA overlay zone, construction of new or expansion of existing roofed structures
7 and enclosures of any type on piers or bulkheads is prohibited channelward of mean high water or
8 beyond the landward edge of tidal wetlands.
- 9 4. Use of concrete well rings for construction of revetments, breakwaters, groins, or bulkheads is
10 prohibited.
- 11 5. A permit from the Department of Land Use and Growth Management is required for construction,
12 structural repair, and expansion of all shoreline structures.
- 13 6. Property lines shall be extended to open tidal waters as follows:
- 14 a. Determine if the applicant's property is part of a cove, peninsula, or straight shoreline
15 configuration using the St. Mary's county Critical Area Maps. (This information will be
16 used in "f" below).
- 17 b. Prepare a scale drawing showing the applicant's property and all adjacent waterfront
18 properties within a 200 foot radius of the shoreline owned by the applicant.
- 19 c. On the scaled drawing, add the shoreline as shown on the St. Mary's County Critical Area
20 Maps.
- 21 d. Intersect all property lines with the shoreline (if they do not intersect already) to create
22 cornerpoints.
- 23 e. Connect all cornerpoints created in "d" above with a chord (i.e. a straight line) for the
24 applicant's property and repeat the process for the adjoining lot on each side of the
25 applicant's property.
- 26 f. Bisect the chords, i.e. find the midpoint. Draw a line perpendicular to the chord at the
27 point of bisection for each chord created in "e" above, until they intersect, as follows,
28 depending on the applicable waterway condition:
- 29 (1) With a Cove: Extend the perpendicular line into the waterway until the lines
30 form a point of intersection.
- 31 (2) With a Peninsula: Extend the perpendicular lines landward until the lines form a
32 point of intersection.
- 33 (3) With a Straight Shoreline: The extended perpendicular lines will not intersect.
34 In this case, lines perpendicular to the chord shall be drawn and extended
35 into the waterway from the cornerpoints created in "e" above for the
36 applicant's lot and the adjoining lots.
- 37 g. Determine the useable waterway defined by the extended property lines for the
38 appropriate waterway condition.
- 39 (1) With a Cove: To determine the limits of the useable waterway for the applicant's
40 lot, connect the cornerpoints of the chord with the point of intersection
41 created in "f(1)" above. These lines are the extended property lines with a
42 cove for the purposes of this Ordinance.
- 43 (2) With a Peninsula: To determine the limits of the useable waterway for the
44 applicant's lot, connect the cornerpoints of the chord with the pint of
45 intersection created in "f(2)" above. These lines extended into the
46 waterway are the extended property lines with a peninsula for the purposes
47 of this Ordinance.

- 1 (3) With Straight Shoreline: To determine the limits of the useable waterway for the
2 applicant's lot, use the lines drawn perpendicular to the chord and extended
3 into the waterway from the cornerpoints created in "f(3)" above. Since
4 these lines intersect, the more restrictive of the two extended perpendicular
5 lines to the applicant's property shall be the extended property lines for the
6 purposes of this regulation.
- 7 (4) For properties from which extended property lines intersect in such a way that
8 the property's useable waterway is eliminated, the angles defining the
9 unbuildable area shall be bisected to provide a useable waterway to the
10 greatest extent possible.
- 11 h. Setbacks: The setback for construction within the useable waterway as determined by the
12 extended property line is as follows:
- 13 (1) No piers, "T" heads, "L" heads, mooring piles, slips or boathouses shall be
14 constructed within 25 feet of the extended property line as defined in this
15 Section.
- 16 (2) The extended property line setback may be reduced if a signed affidavit is
17 obtained by the applicant from the adjacent property owner.
- 18 i. Properties which have no useable waterway under the provisions of this Section may be
19 eligible for review by the Board of Appeals as a hardship in accordance with Chapter 25.
- 20 7. An applicant must obtain an agreement in recordable form from adjacent property owner(s) to
21 install any pier or piling closer than 25 feet to an extended property line, or to install any pier or
22 piling that crosses that line. For properties that do not have useable riparian rights, an applicant
23 may obtain written notarized permission from the adjacent property owner to construct a pier or
24 install pilings. An expansion of an existing structure already crossing an extended property line or
25 encroaching into the extended property line setback may be authorized by the adjacent property
26 owner's written notarized permission to increase the encroachment. When written notarized
27 permission cannot be obtained, the applicant may apply to the Board of Appeals for a variance to
28 encroach into the extended property line setback or to cross an extended property line.
- 29 8. The following performance standards for shoreline structures shall be observed:
- 30 a. Limits of disturbance, including stockpile areas, shall be minimized.
- 31 b. Stockpile areas shall be located outside the buffer.
- 32 c. The total area within the approved limits of disturbance shall be mitigated at 1:1. In
33 addition, any cut trees with a DBH over four inches in the buffer shall be mitigated at 2:1.
34 All mitigation shall be planted in the buffer.
- 35 d. Mitigation shall be at 3:1 for areas disturbed outside the approved limits of disturbance
36 and for the entire disturbed area when disturbance occurs prior to obtaining a permit.
- 37 e. Maximum width of structures crossing nontidal wetlands shall be three feet.
- 38 f. The use of structural shore erosion protection works measures will be permitted only in
39 significantly eroding areas where non-structural works are not practical and effective and
40 both the following conditions exist:
- 41 (1) Structural measures would provide effective and practical erosion control; and
42 (2) Non-structural control measures would be impractical or ineffective.
- 43 g. Where structural erosion protection works are required, the measure that best provides for
44 conservation of fish and plant habitat, and which is practical and effective shall be used.
- 45 h. Clearing to allow sunlight to shoreline grasses shall be restricted to the area necessary for
46 maintenance of the grasses. Mitigation for such clearing shall occur in the 100-foot
47 buffer.

1 **CHAPTER 72 FOREST AND WOODLAND RESOURCES IN THE CRITICAL AREA**

2 Sections:

- 3 72.1 Intent.
- 4 72.2 Timber Harvests in the Critical Area.
- 5 72.3 Site Development Standards for Forest and Woodland Protection.
- 6 72.4 Fees-in-Lieu of In-Kind Replacement.
- 7 72.5 Mitigation Banking.

8 **72.1. Intent.**

- 9 1. To protect forested land while also meeting the needs of the growing population.
- 10 2. To maintain and increase the forested vegetation in the Chesapeake Bay Critical Area, (the
- 11 "Critical Area") and, where possible, throughout the County.
- 12 3. To conserve forests and developed woodlands.
- 13 4. To maintain, to the extent possible, the protective values of wildlife, water quality, timber,
- 14 recreation and other resources.

15 **72.2. Timber Harvests in the Critical Area.**

- 16 1. The following standards shall be followed for the harvest of timber in the Critical Area:
- 17 a. Forest management plans are required for all timber harvesting occurring on one or more
- 18 acres in the Critical Area. In addition, a sediment control plan is required for all harvests
- 19 of 5,000 square feet or more of disturbed area in the Critical Area.
- 20 b. All new harvesting operations are subject to the environmental review process.
- 21 c. Cutting or clearing of trees within the buffer is prohibited except in accordance with the
- 22 provisions of an approved buffer management plan.
- 23 d. Lands subject to a timber harvest are required to remain in forest use, with regeneration
- 24 by the method(s) approved in the timber harvest plan, for a minimum of five years from
- 25 the date of the environmental permit issued approving the harvest. After five years from
- 26 the date the harvest was completed, conversion to a new land use will require mitigation
- 27 as provided in this Ordinance only for the area in which any cutting and clearing of the
- 28 successional forest and regenerating growth has occurred.

29 **72.3. Site Development Standards for Forest and Woodland Protection.**

- 30 1. Development activities within the Critical Area shall comply with the following standards:
- 31 a. All Overlay Zones.
- 32 (1) Mitigation planting to offset adverse impacts associated with the clearing and
- 33 cutting of trees is required in accordance with subsection 72.3.5 herein.
- 34 (2) An environmental permit is not required to remove dead or dying trees or to
- 35 prune trees; however, standing dead and dying trees (snags) have significant
- 36 habitat value for many species for food and shelter and should be left
- 37 standing when they are not a hazard to persons or property.
- 38 (3) For the cutting or clearing of trees in forests or developed woodlands associated
- 39 with the creation of new agricultural lands for bona fide agricultural uses,
- 40 including the creation of farm ponds for irrigation and sediment collection,
- 41 one to one mitigation shall be required that occurs within:
- 42 (a) 25 feet of the edge of non-tidal wetlands; or

- 1 (b) 25 feet of the top of slopes of greater than 15 percent or those soils with
2 a "K" value greater than 0.35 and a slope greater than 5 percent.
- 3 (4) A planting agreement and bond shall be provided prior to the recording of any
4 new lots for any proposed clearing of land for installation of required
5 infrastructure or for amenities or facilities to be constructed on community
6 property. The planting agreement and subdivision plat, at a minimum, shall
7 provide for a reforestation or afforestation site on the parcel, permanently
8 protected as open space. Deferral of planting until time of development on
9 the lots shall be prohibited.
- 10 (a) Clearing on individual lots may be permitted and shall be reviewed at
11 the time of development on the lot
- 12 b. Intensely Developed Areas.
- 13 (1) New development shall be clustered, to the extent practicable, to minimize the
14 disturbance of areas of natural vegetation.
- 15 (2) When the cutting or clearing of trees and vegetation in forests and developed
16 woodlands areas is associated with development activities, mitigation
17 planting on-site, or payment of a fee-in-lieu if no area is available to plant,
18 shall be required on a 1:1 basis for the replacement of natural vegetation
19 cleared.
- 20 (a) Enhancement of forest and developed woodland resources using urban
21 forestry, street tree planting, gardens, landscaping or open land buffers
22 is encouraged.
- 23 c. Limited Development Areas and Resource Conservation Areas.
- 24 (1) In developed woodlands, natural vegetation, individual trees and landscape
25 plantings shall be conserved to the greatest extent practicable.
- 26 (2) If a project involves the alteration of forest, all forest cover removed must be
27 mitigated pursuant to Section 72.3.5. Clearing in excess of 30 percent of
28 any forest or developed woodland is prohibited.
- 29 (3) Bonding shall be provided by owners or developers in an amount acceptable to
30 the County and suitable to assure satisfactory replacement of required
31 vegetation.
- 32 (4) An approved grading permit shall be required prior to the clearing of forest and
33 developed woodland in accordance with the provisions of this Ordinance.
- 34 (5) If the size of the site prevents required afforestation or reforestation, the use of
35 alternative provisions or reforestation guidelines will be permitted,
36 including the payment of fees-in-lieu for Critical Area afforestation projects.
- 37 (6) Afforestation is required to meet minimum required forest cover. All properties
38 for which an application is made for an environmental permit and
39 subdivision or site plan approval shall have or mitigate to provide 15
40 percent of their acreage in forest or developed woodland cover except that:
- 41 (a) Individual lots in a subdivision may be exempted from the afforestation
42 requirement provided the overall subdivision plan approval provides 15
43 percent coverage for the original subdivided parcel; and
- 44 (b) The acreage of a bona fide agricultural parcel that is managed under a
45 soil conservation and water quality plan (farm plan) and/or nutrient
46 management plan may be exempted from the afforestation requirement.
47 Any area excluded from management under the farm plan or nutrient
48 management plan, including home sites, roads, barren lands, and other

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- 1 areas with non-farm use, shall be subject to the minimum forest
2 coverage and afforestation requirements for the parcel.
- 3 2. *In-Kind Forest and Developed Woodland Mitigation.* The replacement or establishment of forests
4 or developed woodlands shall assure a diversified plant community, but may include other types of
5 woody plantings where necessary to correct an existing soil stabilization problem. Diverse forest
6 plantings shall include a canopy layer, an understory layer, and a shrub layer. On wooded lots
7 where a diverse forest does not exist, or diversity could be enhanced with understory trees and
8 shrubs, addition of these shall be a preferred option over the use of fees-in- lieu.
- 9 3. *Calculation of Mitigation Areas.* Afforestation and reforestation areas shall be calculated as
10 follows:
- 11 a. Forest Clearing.
- 12 (1) Mitigation in the IDA shall be based on a 1:1 basis for square feet cleared.
- 13 (2) Mitigation in the LDA or RCA shall be based on the following required
14 quantities:
- 15 (a) Equal area basis per square foot of clearing for clearing up to 20
16 percent of existing vegetative coverage; or
- 17 (b) One-and-one-half times the area of clearing for clearing between 20
18 and 30 percent of existing vegetative coverage; or
- 19 (c) Three times the area basis per square foot for unauthorized clearing in
20 the 100-foot buffer or for clearing in excess of 30 percent of existing
21 vegetative coverage.
- 22 (3) Clearing before required permits have been obtained or clearing in excess of the
23 amount approved by the permit shall be subject to a fine as specified in the
24 schedule of fees, fines and penalties adopted by the County Commissioners,
25 three times area mitigation and other civil penalties as allowed by this
26 Ordinance.
- 27 b. *Removal of Individual Trees and Shrubs.* Mitigation for removal of individual trees shall
28 be on an equal area basis per square foot of disturbance outside the 100-foot buffer and
29 three times the area basis per square foot of disturbance inside the 100-foot buffer.
- 30 c. Shore Erosion Control Projects.
- 31 (1) Mitigation shall be on an equal area basis for all forest, trees and shrubs
32 removed to accomplish the project.
- 33 (2) Mitigation shall be on an equal area basis for additional area of grading within
34 the approved limits of disturbance.
- 35 (3) Mitigation shall be increased to three times area basis for areas disturbed outside
36 the approved disturbance and for the entire disturbed area when disturbance
37 occurs prior to obtaining all necessary approvals.
- 38 4. Special Provisions.
- 39 a. Implementation of mitigation measures for habitat protection areas that are recommended
40 by the Department of Land Use and Growth Management or the TEC may, at the
41 discretion of the approving authority, be required in addition to, or as an alternative to,
42 the mitigation quantities calculated in this subsection.
- 43 b. Removal of invasive and noxious species by hand may be permitted without mitigation if
44 the understory is allowed to naturally regenerate. Within the Buffer, the removal of
45 invasive and noxious species requires approval of a Buffer Management Plan in
46 accordance with the provisions of Section 71.8.3.d. These species are identified in the

1 Noxious and Invasive Species List prepared by the Department of Natural Resources and
2 included in the appendix of the Forest Conservation Manual, latest edition.

3 5. *Planting Specifications.* Where reforestation or afforestation is required, the following minimum
4 standards shall apply.

5 a. *Calculation of Required Planting:* Mitigation for disturbance to existing vegetative cover
6 or afforestation areas shall be determined and calculated at 400 square feet per six foot
7 tall, two inch diameter tree and 200 square feet per three gallon shrub planted.

8 b. Species Type.

9 (1) Unless otherwise approved by the Department of Land Use and Growth
10 Management, tree species shall be selected from the species list
11 recommended by the Department of Natural Resources and included in the
12 appendix of the Forest Conservation Manual latest edition.

13 (2) Plant materials shall meet or exceed the requirements of standard nurserymen
14 specifications. All plants shall be typical of the species and variety, shall
15 have a normal habit of growth, and shall be first quality, sound, vigorous,
16 well-branched, and with healthy, well-furnished root systems. They shall be
17 free of disease, insect pests, and mechanical injuries. Plants shall be
18 nursery grown. Heeled-in plants, plants from cold storage and non-nursery
19 stock transplanted from within the Critical Area are prohibited.

20 c. *Site Stocking.* Stocking for the areas required for reforestation or afforestation shall meet
21 the following density requirements summarized in Schedule 72.3.5. Plant installation
22 shall conform to the methods for seedlings and whips, container-grown stock, and balled
23 and burlapped trees, as recommended in the planting specifications of the Forest
24 Conservation Manual, latest edition.

25 (1) Trees. A minimum of 60 percent of the total required acreage of planted
26 mitigation shall be trees. For afforestation, at least 50 percent of the
27 required tree acreage should be canopy trees.

28 (a) Minimum size of stock to be:

- 29 1. Six feet tall by two-inch caliper or greater for canopy trees.
- 30 2. Six feet tall or greater for evergreen trees.
- 31 3. One inch caliper or greater for understory trees.
- 32 4. Bare root seedlings and whip tree stock shall be allowed
33 pursuant to an approved planting plan only.

34 (2) Shrubs. A maximum of 40 percent of the total required acreage of planted
35 mitigation may be native, three gallon, shrubs.

36 (3) Herbaceous Plants, Hydrophytic Plants, and Vines. The Department of Land
37 Use and Growth Management may authorize use of alternative planting
38 materials, consistent with habitat protection area needs, special site
39 conditions or recommendations of the Maryland Department of Natural
40 Resources. Stocking levels for alternative plant materials shall be
41 determined on a case by case basis as part of the environmental review.

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SCHEDULE 72.3.5: CRITICAL AREA PLANTING SPECIFICATIONS

Trees/Acre	Tree Size Average Spacing At Recommended Stocking Level*	Area Credited (Per Tree for Planted Mitigation)
400	2" caliper trees (20'x20' spacing*)	400 square feet
200	1" caliper trees (15'x15' spacing*)	200 square feet
350	Hardwood whips (11'x 11' spacing*)	120 square feet
700	seedlings/acre (8'x8' spacing*)	70 square feet
shrubs/200	3 gallon shrubs/15'x15' spacing*	200 square feet

*Not to imply trees must be planted in a grid pattern

- d. *Supplemental Materials.* The Department of Land Use and Growth Management may require the use of supplemental planting materials when approving a Critical Area planting agreement or buffer planting agreement if soils or other site conditions warrant. These supplemental materials may include but shall not be limited to soil amendments, tree staking, or tree shelters.

- 6. *Critical Area Planting Agreement.* A Critical Area planting agreement consists of a signed agreement with a planting plan and, when required, a bond.
 - a. The planting agreement shall be signed by the property owner and a bond submitted in a form acceptable to the County, if required below, prior to final subdivision or site plan approval, or issuance of an environmental permit for development activity in the Critical Area.
 - b. Implementation of the planting agreement shall be required within two planting seasons. An extension of the planting agreement for one planting season may be obtained upon written request with accompanying justification demonstrating hardship or special conditions that prevented completion of the original planting agreement. Certificates of occupancy will not be issued without satisfactory implementation of the planting agreement or payment of a bond in the amount of the estimated cost of the required planting.
 - c. Applicants are required to notify the Department of Land Use and Growth Management when the planting required by the planting agreement is complete and to request an inspection to verify implementation of the planting agreement.
 - d. The Planting agreement shall include the proposed selection of plant types, which should be chosen from the recommended plant list available from the Department of Land Use and Growth Management and the planting schedule.
 - e. For the first two years after initial planting, competing vegetation shall be effectively controlled pursuant to the planting agreement approved by the Planning Director.
 - f. *Survivability.* All mitigation plantings shall be required to achieve a 60 percent survival rate after one year. Unsuccessful plantings below 60 percent after one year shall be replanted and the bond amount for those plantings held for another year.
 - g. *Bonds.*
 - (1) Execution of a planting bond for planting is required for all non-residential applications and for all other applications when total cumulative quantities of required mitigation on a parcel or lot exceed 4,000 square feet.

- 1 (2) If implementation of the planting agreement on projects with less than 4,000
2 square feet of mitigation is not satisfactorily completed, a bond shall be
3 required prior to issuance of a certificate of occupancy.
- 4 (3) Calculating Bonds. Bond amounts are based upon the estimated base cost for
5 planting, which shall be calculated using the schedule of fees, fines and
6 penalties adopted by the County Commissioners.
- 7 (a) The bond required for any reforestation or afforestation shall be the
8 dollar figure resulting from the formula.
- 9 (4) Bonds posted to secure a Temporary certificate of occupancy shall be 100
10 percent of the estimated base cost for planting trees.
- 11 (5) In the event the applicant breaches the Critical Area planting agreement, the
12 applicant shall forfeit any bonds. The bonds shall be used by the County to
13 restore the property. If no bond was required or if the bonds are insufficient
14 to pay the costs of restoration, the County shall place a lien against the
15 property for all monies due and owing to the County for performing
16 necessary planting, maintenance, replacement of dead or dying plantings,
17 and other costs and expenses.

18 **72.4. Fees-in-Lieu of In-Kind Replacement.**

- 19 1. When forest or developed woodland cannot be replaced in kind at an on-site or off-site location,
20 the applicant shall pay a fee in lieu of planting to the County in accordance with the schedule of
21 fees, fines and penalties adopted by the County Commissioners.
- 22 2. Fees-in-lieu are not permitted for unauthorized clearing performed prior to obtaining required
23 permits (including clearing in excess of the amount approved by the permit).
- 24 3. Fees in lieu shall be maintained in a separate account to be used to fund plantings on the following
25 lands:
- 26 a. State or County lands in need of reforestation, buffers, or habitat corridors; or
27 b. Severely eroding land (non-farm) in need of reforestation, buffers, or habitat corridors; or
28 c. Severely eroding farm land; or
29 d. Unreclaimed surface mines abandoned prior to current reclamation regulations; or
30 e. Fallow fields or abandoned pastures; or
31 f. Community open space; or
32 g. Special projects designated by the County.

33 **72.5. Mitigation Banking.**

34 Mitigation banking is established to provide a process for a landowner to receive credit for native species of
35 trees planted or allowed to naturally regenerate on a property. Credit may be applied toward either
36 reforestation or afforestation requirements for development and land-disturbing activities that require
37 mitigation. Verification and acceptance of mitigation banking does not constitute any form of approval for
38 future land-disturbing activities.

- 39 1. Requirements and Limitations.
- 40 a. In anticipation of future clearing or land-disturbing activities, a landowner may obtain a
41 Critical Area permit to verify planting on a parcel in the Critical Area that will qualify as
42 a mitigation area for the anticipated clearing or land disturbance. Such a permit may be
43 issued only under the following conditions:
- 44 (1) Only native species of trees may be banked.

- 1 (2) A Critical Area site plan prepared by a registered surveyor showing the area of
2 vegetation to be planted or allowed to naturally regenerate shall be
3 submitted as part of the request for a Critical Area permit for mitigation
4 banking.
- 5 (3) Prior to issuing the permit, a planting agreement and plan shall be executed,
6 documenting the number, location, type and size of the trees to be planted or
7 allowed to regenerate.
- 8 (4) Regeneration shall occur on cleared land or abandoned agricultural lands in the
9 RCA.
- 10 (5) A planting inspection and sign-off by the inspector or the environmental planner
11 on the planting agreement shall be carried out at completion of the work.
- 12 b. A new Critical Area permit must be obtained before proposed development and land-
13 disturbing activities are initiated on the parcel. It is the responsibility the applicant to
14 request use of banking as part of the application. A site inspection by the Planning
15 Director shall be performed as part of environmental review to verify the quantity and
16 location of surviving banked trees or the development of successional forest. The
17 surviving trees shall be credited, on a per tree basis and regeneration areas on a square
18 foot basis toward the Critical Area permit planting requirements. Only trees planted in
19 the 100-foot buffer may be credited toward required buffer planting. Trees and square
20 footage in excess of the amount required shall be documented as remaining in the
21 mitigation bank for the site and may be used at a later date.
- 22 c. Trees and regeneration areas that have been credited toward a planting agreement for a
23 project shall be indicated on the Critical Area site plan and shall be permanently protected
24 from being cut or cleared in the future.
- 25 d. Trees and regeneration areas that have not been credited toward a planting agreement are
26 protected as forest and woodland and, subject to all the provisions of this Forest and
27 Woodland Preservation section and clearing of these trees may be allowed subject to all
28 mitigation requirements of this Ordinance.

1 **CHAPTER 73 AGRICULTURAL RESOURCES IN THE CRITICAL AREA.**

2 Sections:

3 73.1 Purpose.

4 73.2 Performance Standards for Agriculture.

5 **73.1. Purpose.**

6 The Chesapeake Bay Critical Area Program and Ordinance is intended to preserve existing agricultural
7 uses and provide for the management of these lands so that non-point source pollution resulting from
8 agricultural activities is minimized and natural habitats are conserved. Further purposes include:

- 9 1. Managing agricultural activities to minimize pollutant loading to the Bay and its tributaries; and
- 10 2. Minimizing contamination of surface and groundwater from agricultural activities through the use
11 of best management practices; and
- 12 3. Encouraging the performance of agricultural activities in accordance with soil conservation and
13 water quality plans approved by the local Soil Conservation District; and
- 14 4. Assuring that the creation of new agricultural lands is accomplished in accordance with standards
15 that protect wetlands, steep slopes, water quality, and plant and wildlife habitats.

16 **73.2. Performance Standards for Agriculture.**

- 17 1. Creation of new agricultural areas where none has existed for the previous five years, shall require
18 an environmental permit.
- 19 2. New agricultural areas may not be created by any of the following means:
 - 20 a. Diking, draining, or filling of any class or subclass of palustrine wetlands that have a
21 seasonally flooded or wetter water regime, unless mitigation is accomplished; or
 - 22 b. Clearing forests or woodlands on soils with a slope greater than 15 percent or on soils
23 with a "K" value greater than 0.35 and a slope greater than 5 percent; or
 - 24 c. Clearing that would adversely affect water quality or destroy designated plant and
25 wildlife habitat protected by this Ordinance.
 - 26 d. Clearing of existing natural vegetation in the Buffer.
- 27 3. Agricultural activities may be permitted in the Chesapeake Bay Critical Area buffer a minimum
28 best management practice, a 25-foot vegetated filter strip measured landward from the mean high
29 water line of tidal water or tributary streams (excluding drainage ditches), or from the edge of tidal
30 wetlands, whichever is further inland, is established, and further provided that:
 - 31 a. The filter strip shall be composed of either trees with a dense cover or a thick sod of
32 grass; and
 - 33 b. The filter strip shall be expanded by a distance of four feet for every 1 percent of slope
34 for slopes greater than 5 percent; and
 - 35 c. The 25-foot vegetated filter strip shall be maintained until such time as the landowner is
36 implementing, under an approved soil conservation and water quality plan, a program of
37 best management practices for the specific purposes of improving water quality and
38 protecting plant and wildlife habitat that achieves the objectives of the 25-foot filter strip;
39 and
 - 40 d. The best management practices used in the buffer include a requirement for the
41 implementation of a grassland and manure management program, where appropriate; and
 - 42 e. Farming activities, including the grazing of livestock, are not permitted to disturb stream
43 banks, tidal shorelines or other habitat protection areas occurring in the 100-foot buffer;
44 and

- 1 f. The feed cease, the buffer shall be established. In establishing the Buffer, management
2 measures, including but not limited to, natural regeneration, shall be undertaken to
3 provide natural forest vegetation that assures the Buffer functions set forth in COMAR
4 27.01.09.
- 5 4. Existing habitat protection areas in the Critical Area may not be disturbed, except as otherwise
6 provided herein.
- 7 5. All farms upon which agricultural activities occur in the Critical Area shall implement a soil
8 conservation and water quality plan that have been approved by the St. Mary's County Soil
9 Conservation District. The plans will be formulated to ensure the use of best management
10 practices for the control of nutrients, animal wastes, pesticides, and sediment runoff to protect the
11 productivity of the land and to enhance water quality. Landowners who have signed up as
12 conservation district cooperators, but who do not have a soil conservation plan prepared for them
13 by the district, may continue farming, provided the goals and all other requirements of this
14 Ordinance are being met.

1 **CHAPTER 74 SUPPLEMENTAL CRITICAL AREA RESOURCE STANDARDS.**

2 Sections:

3 74.1 Purposes.

4 74.2 Performance Standards for Surface Mining in the Critical Area.

5 74.3 Performance Standards for Protecting the Seasonal High Water Table in the Critical
6 Area.

7 **74.1. Purposes.**

8 1. This chapter is enacted to recognize that the extraction of mineral resources is an important natural
9 resource activity permitted within the Chesapeake Bay Critical Area by COMAR 27.01.07, subject
10 to reasonable regulation. This chapter shall:

11 a. Assure that available measures are taken to protect the Critical Area from all sources of
12 pollution from surface mining operations including, but not limited to, sedimentation and
13 siltation chemical and petrochemical use and spillage; and storage of wastes, dusts, and
14 spoils.

15 b. Assure that mining is conducted in a way that permits reclamation of the site as soon as
16 possible and to the extent possible.

17 2. This chapter is further intended to prevent leaching of septic fields into the water table, which may
18 threaten the continued use of this ground water resource and which could result in additional
19 adverse impacts throughout the County's Critical Area.

20 **74.2. Performance Standards for Surface Mining in the Critical Area.**

21 1. *Mineral Resource Extraction.* Generally, the extraction of mineral resources within the Critical
22 Area may be permitted. However, all areas of proposed or active mining operations that exceed
23 one acre in size in the Critical Area may not be permitted where:

24 a. Threatened and endangered species, areas of scientific value, or rare assemblages of
25 species per Maryland Annotated Code 10-2A occur.

26 b. Highly erodible soils occur within the limits of all disturbance, or between the mining
27 operations and jurisdictional waters of the state.

28 c. The use of renewable resource lands would result in the substantial loss of long-range
29 (i.e., 25 years or more) productivity of forest and agriculture, or would result in a
30 degradation of water quality or a loss of vital habitat; or

31 d. The lands are within 100 feet of the mean high water line of tidal waters or the edge of
32 tributary streams.

33 2. *Wash Plants.* New wash plants, including ponds, spoil piles and equipment, may not be located in
34 the buffer.

35 3. *Wash Ponds.* Wash ponds shall be reclaimed as soon as practicable after the cessation of on-site
36 mining operations.

37 **74.3. Performance Standards for Protecting the Seasonal High Water Table in the Critical Area.**

38 1. In order to minimize the impacts of surface land use on the seasonal high water table, development
39 that requires on-site septic systems in the Chesapeake Bay Critical Area shall be located away
40 from areas susceptible to leaching because of topography and soils and areas where the depth of
41 the seasonal high water table is between zero and three feet.

1 **CHAPTER 75 FOREST CONSERVATION**

2 Sections:

- 3 75.1 Purpose and Authority.
4 75.2 Applicability.
5 75.3 Application Requirements.
6 75.4 Forest Stand Delineations (FSD).
7 75.5 Forest Conservation Plan (FCP).
8 75.6 Preliminary Forest Conservation Plan.
9 75.7 Final Forest Conservation Plan.
10 75.8 Afforestation, Retention, and Reforestation.
11 75.9 Afforestation and Reforestation Standards.
12 75.10 Payment Instead of Afforestation and Reforestation.
13 75.11 Financial Security for Afforestation and Reforestation.
14 75.12 Forest Conservation Cost Share Program.

15 **75.1. Purpose and Authority.**

16 The purpose of this chapter is to regulate the cutting and clearing of certain forests and to require forest
17 stand delineations and forest conservation plans for many development activities. The provisions of this
18 chapter have been developed pursuant to *Natural Resources Article*, §§5-1601–5-1612, Maryland,
19 Annotated Code, which requires units of local government with planning and zoning authority to establish
20 and implement local forest conservation programs.

21 **75.2. Applicability.**

- 22 1. Except as provided below, this chapter applies to:
- 23 a. A person making application for: a subdivision creating new building lots, site plan,
24 grading, or sediment control approval on units of land of 20,000 square feet or greater
25 after the effective date of this Ordinance.
- 26 b. A unit of county or municipal government, including a public utility or public works
27 agency, making application for a subdivision, site plan, grading, or sediment control
28 approval on areas 20,000 square feet or greater.
- 29 2. *Exemptions.* This chapter does not apply to the following activities:
- 30 a. Highway construction activities under *Natural Resources Article*, §5-103, Maryland
31 Annotated Code.
- 32 b. Areas governed by Chapter 41; or
- 33 c. Commercial logging and timber-harvesting operations, including harvesting conducted
34 subject to the forest conservation and management program under Tax-Property Article,
35 §8-211, Annotated Code of Maryland, that are completed before July 1, 1991, or, if
36 completed after July 1, 1991, on property that:
- 37 (1) Has not been the subject of application for a grading permit for development
38 within five years after the logging or harvesting operation.
- 39 (2) Is the subject of a declaration of intent as provided for in this chapter; or
- 40 (3) Has an approved erosion and sediment control plan.
- 41 d. Agricultural activities not resulting in a change in land use category, including
42 agricultural support buildings and other related structures built using accepted best
43 management practices.

- 1 e. The cutting or clearing of public utility rights-of-way or land for electric generating
2 stations licensed under Article 78, §§54A and 54B or §54-I, Maryland Annotated Code,
3 if:
- 4 (1) Required certificates of public convenience and necessity have been issued in
5 accordance with *Natural Resources Article*, §5-1603(f), Maryland
6 Annotated Code; or
- 7 (2) Cutting or clearing of the forest is conducted to minimize the loss of forest.
- 8 f. Routine maintenance of public utility rights-of-way.
- 9 g. Routine maintenance or emergency repairs of a public utility right-of-way if:
- 10 (1) The right-of-way existed before the effective date of this Ordinance, or
11 (2) Initial construction of the right-of-way was approved under this Ordinance.
- 12 h. A residential construction activity conducted on an existing single lot of any size or a
13 linear project if the activity:
- 14 (1) Does not result in the cumulative cutting, clearing, or grading of more than
15 20,000 square feet of forest, as required by State law; and
- 16 (2) Does not result in the cutting, clearing, or grading of a forest that is subject to
17 the requirements of a previously approved Forest Conservation Plan; and
- 18 (3) Is the subject of a declaration of intent filed with the Department of Land Use
19 and Growth Management, as provided for in this chapter, stating that the lot
20 will not be the subject of a regulated activity within five years of the
21 cutting, clearing, or grading of forest.
- 22 i. Non-coal surface mining regulated under the Environment Article, Title 15, Subtitle 8,
23 Maryland Annotated Code.
- 24 j. An activity required for the purpose of constructing a dwelling house intended for the use
25 of the owner, or a child of the owner, if the activity:
- 26 (1) Does not result in the cutting, clearing, or grading of more than 20,000 square
27 feet of forest, as required by State law; and
- 28 (2) Is the subject of a declaration of intent filed with the Department of Land Use
29 and Growth Management.
- 30 k. Construction of a planned unit development that, by December 31, 1991, has:
- 31 (1) Met all requirements for planned unit development approval; and
32 (2) Obtained initial development plan approval by the St. Mary's County Planning
33 Commission.
- 34 l. The cutting or clearing of trees to comply with the requirements of 14 CFR §77.25
35 relating to objects affecting navigable airspace, provided that the Federal Aviation
36 Administration had determined that the trees are a hazard to aviation.
- 37 3. *Declaration of Intent.* The purpose of the declaration of intent is to verify that the proposed
38 activity is exempt under *Natural Resources Article*, §§ 5-1601–5-1612, Maryland Annotated Code
39 and this chapter.
- 40 a. A person seeking an exemption must file and receive approval of a declaration of intent
41 with the Department of Land Use and Growth Management before commencing the
42 exempted activity.
- 43 b. A declaration of intent shall include the signed agreement, a sketch plan indicating the
44 location of existing forest area and the area to be cleared, and any other information that

- 1 may be required by the Department of Land Use and Growth Management depending on
2 the nature of the exemption requested.
- 3 c. An existing declaration of intent does not preclude an exempted activity on the property
4 that would be subject to a declaration of intent, if the activity:
- 5 (1) Does not conflict with the purpose of any existing declaration of intent, and
6 (2) Complies with the applicable requirements for an exempted activity.
- 7 d. If a regulated activity occurs within the area covered by the declaration of intent within
8 five years of the effective date of the declaration of intent, then:
- 9 (1) There shall be an immediate loss of exemption; or
10 (2) There may be a noncompliance action taken by the Department of Land Use and
11 Growth Management, as appropriate, under this Ordinance.
- 12 e. An applicant may apply to conduct a regulated activity on an area of the property not
13 covered under the declaration of intent if the requirements of this Chapter are satisfied.
- 14 f. The Department of Land Use and Growth Management may require a person failing to
15 file a declaration of intent or found in noncompliance with a declaration of intent to
16 perform one, more, or all of the following:
- 17 (1) Meet the retention, afforestation and reforestation requirements established in
18 this chapter.
- 19 (2) Pay a noncompliance fee as established in the schedule of fees, fines, and
20 penalties adopted by the County Commissioners for forest cut or cleared
21 under a declaration of intent.
- 22 (3) Be subject to other enforcement actions appropriate under *Natural Resources*
23 *Article*, §§5-1601–5-1612, Maryland Annotated Code and this Ordinance.
- 24 (4) File a declaration of intent with the Department of Land Use and Growth
25 Management.
- 26 g. The declaration of intent is for five years.

27 **75.3. Application Requirements.**

- 28 1. The Maryland Department of Natural Resources Forest Conservation Manual, as amended from
29 time to time, is hereby incorporated by reference as St. Mary's County's Forest Conservation
30 Technical Manual.
- 31 2. A person making application after the effective date of this Ordinance for subdivision or project
32 plan approval, a grading permit, or a sediment control permit pursuant to the provisions of this
33 Ordinance for an area of land of 20,000 square feet or greater shall:
- 34 a. Submit to the Department of Land Use and Growth Management a forest stand
35 delineation and a forest conservation plan for the lot or parcel on which the development
36 is proposed; and
- 37 b. Use methods set forth in the Forest Conservation Technical Manual, as amended, to
38 protect retained forests and trees during construction.

- 1 3. Effective October 1, 2009, a building permit may not be issued to an applicant for any clearing,
2 construction, or development that will result in the trimming, cutting, removal or injury of a
3 roadside tree until the applicant first obtains a permit from the Department of Natural resources,
4 per National Resources Articles §5-401 - §5-406.
- 5 **75.4. Forest Stand Delineations (FSD).**
- 6 1. *In General.* A FSD for regulated activities shall be submitted in accordance with Figure 2:1 Forest
7 Stand Delineation Decision Matrix, of the Forest Conservation Technical Manual.
- 8 2. *Preparation.* The forest stand delineation shall be prepared by a licensed forester, licensed
9 landscape architect, or qualified professional who meets the requirements of COMAR
10 08.19.06.01B.
- 11 3. Submittal Requirements.
- 12 a. *Standard Forest Stand Delineation (FSD).* A standard FSD shall contain the information
13 required by the Forest Conservation Technical Manual and any other information the
14 Department of Land Use and Growth Management determines is necessary to implement
15 this chapter, including but not limited to:
- 16 (1) An environmental features map including a site vicinity map; and
17 (2) Stand summary sheets; and
18 (3) A narrative report of forest stand conditions; and
19 (4) The final forest stand delineation.
- 20 b. A simplified FSD shall contain a site plan per Section 71.2.4 that delineates the priority
21 forest areas on the site, as identified below:
- 22 (1) Habitats of rare, threatened and endangered species.
23 (2) Trees, shrubs and herbaceous plants associated with;
24 (a) Intermittent and perennial streams and their buffers; and
25 (b) Slopes over 25 percent; and
26 (c) Slopes over 25 percent with highly erodible soils; and
27 (d) 100-year floodplain and drainageway buffers.
28 (3) Forest stands with high forest diversity.
29 (4) Forest areas that are part of forests that are 100 acres in size.
30 (5) Forest areas that are at least 300 feet wide and have, primarily native vegetation
31 connecting larger forested tracts.
32 (6) Trees that are part of a historic site or associated with a historic structure.
33 (7) Trees designate as a national, state or local champion; and
34 (8) Trees that measure 75 percent of the diameter of the designated state champion.
35 (9) Trees with a DBH of 30 inches or greater.
- 36 c. Stand summary sheets and narrative of forest conditions shall be submitted for the areas
37 within the proposed development envelope(s).
- 38 4. *Period of Effectiveness.* An approved FSD shall remain valid for a period not longer than five
39 years.
- 40 a. If forest stand delineation approval lapses and there has been no development or
41 harvesting activity on the site, the lapsed FSD plan and report may be updated, certified

- 1 as current by a qualified professional and resubmitted along with any review/inspection
2 fees.
- 3 b. If forest stand delineation approval lapses and there has been any development activity or
4 harvesting on the site, a new FSD shall be prepared, submitted, and reviewed as a new
5 submission.
- 6 5. Within 30 calendar days after receipt of an FSD, the Department of Land Use and Growth
7 Management shall notify the applicant whether the FSD is complete and correct. If the
8 Department of Land Use and Growth Management fails to notify the applicant within 30 days, the
9 delineation shall be treated as complete and correct. The Department of Land Use and Growth
10 Management may require additional information or provide for an additional 15 calendar days of
11 review under extenuating circumstances.
- 12 **75.5. Forest Conservation Plan (FCP).**
- 13 1. General Provisions.
- 14 a. In developing a forest conservation plan (FCP), the applicant shall give priority to
15 techniques for retaining existing forest on the site.
- 16 b. If existing forest on the site subject to an FCP cannot be retained, the applicant shall
17 demonstrate the following in writing to the Department of Land Use and Growth
18 Management:
- 19 (1) How techniques for forest retention have been exhausted.
- 20 (2) Why the priority forests and priority areas specified in *Natural Resources*
21 *Article*, §5-1607(c), Annotated Code of Maryland, cannot be left in an
22 undisturbed condition.
- 23 (3) If priority forests and priority areas cannot be left undisturbed, the applicant
24 must demonstrate that reasonable efforts have been made to protect them
25 and the sequence for afforestation or reforestation that will be followed in
26 compliance with *Natural Resources Article* §5-1607, (C) (1) Maryland
27 Annotated Code; and
- 28 (4) How the disturbance to specific priority forests and priority areas specified in
29 the *Natural Resources Article* §5-1607, (C) (2) Annotated Code of
30 Maryland, qualifies for a variance, per Chapter 22; and
- 31 (5) Where on the site in priority areas afforestation or reforestation will occur in
32 compliance with *Natural Resources Article* §5-1607, Maryland Annotated
33 Code.
- 34 c. If an applicant proposes to make a payment into the local forest conservation fund or to
35 purchase credits from a forest mitigation bank, he shall demonstrate to the satisfaction of
36 the Department of Land Use and Growth Management that the requirements for
37 afforestation or reforestation cannot be reasonably accomplished either on-site or off-site.
- 38 2. *Simplified Forest Conservation Plan.* A simplified submittal may be accepted for:
- 39 a. A simplified submittal may be accepted for:
- 40 (1) Minor subdivisions and/or farmstead subdivisions in an RPD that:
- 41 (a) Meet the requirements of Chapter 71; and
- 42 (b) Locate limits of disturbance outside the priority forest areas; and
- 43 (c) Locate boundaries of minor lots outside the priority areas; and
- 44 (d) Permanently protect at least 50 percent of the parcel area in forest
45 conservation easements; and

- 1 (e) Prepare and submit a simplified forest delineation plan for the
2 development envelope.
- 3 (2) Subdivisions and site plans in Development Districts, Town Centers, and Village
4 Centers that:
 - 5 (a) Cluster residential development to achieve 3.5 dwelling units minimum
6 per acre within the development envelope; and
 - 7 (b) Prepare and submit a simplified forest delineation plan; and
 - 8 (c) Locate limits of disturbance outside the priority forest areas; and
 - 9 (d) Permanently protect at least 50 percent of the area of the priority forest
10 with a forest conservation easement or permanently protect an area of
11 forest outside the development envelope equivalent to the total area of
12 forest removed.
- 13 b. The simplified FCP shall consist of a site plan and copies of proposed easements and
14 maintenance agreements:
 - 15 (1) The site plan, drawn to scale, shall show:
 - 16 (a) Proposed limits of disturbance and stockpile areas; and
 - 17 (b) Sensitive areas and areas where retention of existing forest and/or
18 afforestation or reforestation is proposed; and
 - 19 (c) Notes indicating:
 - 20 1. Stocking levels for planting in these areas, and
 - 21 2. The forest protection measures within the development
22 envelope; and
 - 23 3. Sequencing of installation for plants and protection measures.
 - 24 (d) A table on the plan that lists, in square feet, the:
 - 25 1. Net tract area; and
 - 26 2. Area of forest conservation required; and
 - 27 3. Area of afforestation required; and
 - 28 4. Area of forest conservation the applicant proposes to provide,
29 including both onsite and off-site areas.
 - 30 (2) A proposed two-year maintenance agreement that shows how areas designated
31 for afforestation or reforestation will be maintained to ensure satisfactory
32 establishment and protection.

33 **75.6. Preliminary Forest Conservation Plan.**

- 34 1. A preliminary FCP shall be prepared by a licensed forester, a licensed landscape architect, or a
35 qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- 36 2. A preliminary FCP shall be submitted with the initial plan of an applicable proposed project and
37 shall include the following:
 - 38 a. An approved standard FSD.
 - 39 b. A table that lists the proposed values of the following, in square feet:
 - 40 (1) Net tract area; and
 - 41 (2) Area of forest conservation required; and

- 1 (3) Area of forest conservation the applicant proposes to provide, including both on-
2 site and off-site areas.
- 3 c. A graphic indication of the forest conservation provided on the site drawn to scale,
4 showing areas where retention of existing forest or afforestation or reforestation is
5 proposed.
- 6 d. An explanation of how the provisions of this chapter have been met.
- 7 e. A proposed afforestation or reforestation plan, if applicable.
- 8 f. A proposed construction timetable showing the sequence of forest conservation
9 procedures.
- 10 g. A plan showing the proposed limits of disturbance and stockpile areas.
- 11 h. A proposed two-year maintenance agreement that shows how areas designated for
12 afforestation or reforestation will be maintained to ensure protection and satisfactory
13 establishment.
- 14 i. Additional information required by the Forest Conservation Technical Manual or which
15 the Department of Land Use and Growth Management determines is necessary to
16 implement this chapter.
- 17 3. The review of the preliminary FCP shall be conducted concurrently with the review of the initial
18 plan submission.
- 19 4. During the different stages of the review process, the preliminary FCP may be modified to address
20 the comments of review agencies or the local approving authority.
- 21 **75.7. Final Forest Conservation Plan.**
- 22 1. A final FCP shall be prepared by a licensed forester, a licensed landscape architect, or a qualified
23 professional who meets the requirements stated in COMAR 08.19.06.01B.
- 24 2. A final FCP shall be submitted with the following:
- 25 a. A final subdivision plan; or
- 26 b. A final site plan; or
- 27 c. An application for a grading permit, or
- 28 d. An application for a sediment control permit.
- 29 3. The final FCP shall include:
- 30 a. A forest and tree protection plan showing limits of disturbance for clearing and grading,
31 existing and proposed topography on the site, and proposed locations and types of
32 protective devices to be used during construction activities to protect trees and forests
33 designated for conservation and construction details for the protection devices.
- 34 b. An afforestation or reforestation plan, if required, with a timetable and description of
35 needed site and soil preparation, species, size, and spacing to be used.
- 36 c. A binding two year maintenance agreement, as specified in COMAR 08.19.05.01, that
37 details how the areas designated for afforestation or reforestation will be maintained to
38 ensure satisfactory establishment and protection, including:
- 39 (1) Watering; and
- 40 (2) A reinforcement planting provision to assure that the survival rate for
41 afforestation and reforestation shall be a minimum of 100 trees per acre or
42 at least 75 percent of the total number of trees planted per acre under the
43 approved plan, whichever is greater.
- 44 d. A long-term, binding, protective agreement as specified in COMAR 08.19.05.02 that:

- 1 (1) Provides protection for areas of forest conservation, including areas of
2 afforestation, reforestation, and retention, by recordation of a final
3 development plat that graphically shows the location of the areas held under
4 the protective measures; and
- 5 (2) Identifies, in a declaration of covenants or describes in a conservation easement
6 approved by the Department of Land Use and Growth Management for
7 consistency with the intent of the forest conservation regulations that runs
8 with the land. The covenant or easement shall identify uses and activities
9 that shall be permitted in areas of forest conservation, including practices or
10 activities that are used to manage the health of the forest and provide for
11 forest product extraction, assure safety of surrounding lands and allow
12 recreational activities. The applicant shall furnish the Department with a
13 copy of the recorded documents after recording.
- 14 e. All elements required in the Forest Conservation Technical Manual and any additional
15 information the Department of Land Use and Growth Management determines is
16 necessary.
- 17 4. All portions of the FCP shall be approved by the Department of Land Use and Growth
18 Management prior to signature approval of a site plan, grading or sediment control permit, or
19 recordation of the final subdivision plat.
- 20 5. Time for Submittal.
- 21 a. Within 45 calendar days after receipt of the final FCP, the Department of Land Use and
22 Growth Management shall notify the applicant whether the FCP is complete and
23 approved, otherwise the forest conservation plan shall be treated as complete and
24 approved. At the request of the applicant, or if further information is required the
25 deadline may be extended for an additional 15 calendar days under extenuating
26 circumstances.
- 27 b. The Department of Land Use and Growth Management's review of a final FCP shall be
28 concurrent with the review of the final subdivision or site plan, grading permit
29 application, or sediment control application associated with the project.
- 30 6. An approved FCP or portions of an approved FCP may be amended through the review and
31 approval of a revised FCP and the recordation of a confirmatory plat or approval of an amended
32 site plan that revises the graphic location of the protected forest areas.
- 33 7. The Department of Land Use and Growth Management may revoke an approved FCP if it finds
34 that:
- 35 a. A provision of the plan has been violated; or
- 36 b. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading
37 statement, or omission of a relevant or material fact; or
- 38 c. Changes in the development or in the condition of the site necessitate preparation of a
39 new or amended plan.

- 1 8. The Department of Land Use and Growth Management may issue a stop work order against a
2 person who violates a provision of this chapter, an approved FCP, or maintenance agreement.
- 3 9. Before revoking approval of an FCP, the Department of Land Use and Growth Management shall
4 notify the violator in writing.
- 5 **75.8. Afforestation, Retention, and Reforestation.**
- 6 Calculations shall be made for afforestation, forest retention, and reforestation as required by the forest
7 conservation worksheet found in Appendix C of the Forest Conservation Manual.
- 8 1. *Afforestation Requirement.* A person making application after the effective date of this Ordinance
9 for subdivision or project plan approval, a grading permit, or a sediment control permit pursuant to
10 the provisions of this Ordinance, for an area of land of 20,000 square feet or greater, shall:
- 11 a. Conduct afforestation on the lot or parcel to achieve the minimum ratios established in
12 Schedule 75.8.1; and

SCHEDULE 75.8.1: AFFORESTATION REQUIREMENTS

Land Use Categories	Zoning Districts	Minimum Afforestation Ratio
Areas zoned for fewer than one dwelling unit per acre or less	RPD, RSC, RCL	20% ¹
Areas zoned for one dwelling unit per acre or more	RL, RH, RNC and RMX	15% ²
Mixed Use areas, Public/Semipublic uses, and Planned Unit Developments	VMX, TMX, PUD	15% ²
Commercial and Industrial areas	CC, DMX, CMX, OBP, I	15% ²

¹ For tract having less than 20 percent of net tract area in forest cover prior to cutting or clearing.

² For tract having less than 15 percent of net tract area in forest cover prior to cutting or clearing.

b. Comply with the following when clearing forest cover that is currently below the requisite afforestation percentages:

- (1) The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
- (2) Forest cut or cleared below the required afforestation level shall be reforested at a 2:1 ratio plus any additional planting necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

2. *Forest Retention.* A person making application after the effective date of this Ordinance for subdivision or site plan approval, a grading permit, or a sediment control permit pursuant to the provisions of this Ordinance, for an area of land of 20,000 square feet or greater, shall:

a. Conserve forest on the lot or parcel in accordance with the minimum ratios established in Schedule 75.8.2.

SCHEDULE 75.8.2: FOREST CONSERVATION THRESHOLDS:

Land Use Categories	Zoning Districts	Minimum Forest Conservation Threshold(Percent of Net Tract Area)
Areas zoned for fewer than one dwelling unit per acre	RPD, RSC, RCL	50%
Areas zoned for one dwelling unit per acre or more	RL, RH, RMX, RNC	20%
Mixed Use areas, Public/Semipublic uses, and Planned Unit Developments	VMX, TMX, PUD	15%
Commercial and Industrial areas	CC, DMX, CMX, OBP, I	15%

b. The procedures from the Forest Conservation Manual for “determining priority forests and priority areas” shall be used to designate priority forests and priority retention areas located on development sites using the forest stand delineation. The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant demonstrates that these areas cannot practicably be left in an undisturbed condition:

- (1) Nontidal Wetlands.
 - (a) Forested nontidal wetland identification and delineation, if present on the site, shall be included in the initial submission to assist the applicant in avoiding and reducing of impacts to the nontidal wetlands and to avoid delay in the approval process.
 - (b) For the purpose of calculating reforestation mitigation under this chapter, a forested nontidal wetland permitted to be cut or cleared and mitigated under COMAR 26.10.01 shall be shown on the FCP and subtracted on an acre-for-acre basis from the total amount of forested wetlands to be cut or cleared as part of a regulated activity.
- (2) Trees, shrubs, and plants located in sensitive areas, including:

- 1 (a) The 100-year floodplain; and
2 (b) Intermittent and perennial streams and their buffers; and
3 (c) Steep slopes; and
4 (d) Critical habitats.
- 5 (3) Contiguous forest that connects the largest undeveloped or most vegetated tracts
6 of land within and adjacent to the site.
- 7 (4) Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
- 8 (a) The federal Endangered Species Act of 1973 in 16 U.S.C. §§1531–
9 1544 and in 50 CFR Article 17; or
- 10 (b) The Maryland Non-game and Endangered Species Conservation Act,
11 *Natural Resources Article*, §§10-2A-01–10-2A-09, Annotated Code of
12 Maryland; or
- 13 (c) COMAR 08.03.08.05.
- 14 (5) Trees that:
- 15 (a) Are part of a historic site; or
16 (b) Are associated with a historic structure; or
17 (c) Have been designated by the state or the County as a national, state, or
18 county champion tree; and
- 19 (6) Any tree having a diameter measured at 4.5 feet above the ground of:
- 20 (a) 30 inches or more; or
21 (b) 75 percent or more of the diameter, measured at 4.5 feet above the
22 ground, of the current state champion tree of that species, as designated
23 by the Department of Natural Resources.
- 24 (7) Any disturbance as described in this Section 75.8.2.b.(4), (5) and (6) above,
25 shall require an administrative variance, pursuant to Chapter 22 and Chapter
26 24.
- 27 c. The applicant shall provide a map at the same scale as the development plan or grading
28 plan submitted for review with graphic illustrations of the forest retention areas with
29 priority rating.
- 30 d. Forest retention areas shall contain a minimum area of 10,000 square feet, calculated as
31 follows:
- 32 (1) 100 percent of the area of critical root zones of trees that are protected; and
33 (2) 25 percent of the area of the critical root zones of isolated specimen trees that
34 are not already counted above, if the entire root zone is protected.
- 35 3. *Reforestation.* A person making application after the effective date of this Ordinance for
36 subdivision or site plan approval, a grading permit, or a sediment control permit pursuant to the
37 provisions of this Ordinance for an area of land of 20,000 square feet or greater, shall plant forest
38 on the lot or parcel in accordance with the following:
- 39 a. All existing forest cover measured to the nearest 1/10 acre that is cleared shall be
40 reforested at a ratio of 1/4 acre planted for each acre removed that does not exceed the
41 threshold set forth at Schedule 75.8.2.
- 42 b. Each acre of forest retained on the net tract area in excess of the applicable forest
43 conservation threshold set forth at Schedule 75.8.2 shall be credited against the total
44 number of acres required to be reforested under paragraph a above. The calculation of

1 the credit shall be according to the criteria provided in the Forest Conservation Technical
2 Manual.

3 c. For clearing in excess of that allowed in Schedule 75.8.2, all existing forest cover
4 measured to the nearest 1/10 acre cleared on the net tract area shall be reforested at a ratio
5 of two acres planted for each acre removed in excess of the threshold and at a ratio of 1/4
6 acre planted for each acre removed that does not exceed the threshold.

7 **75.9. Afforestation and Reforestation Standards.**

8 1. *Site Selection Sequencing.* After techniques for retaining existing forest on the site have been
9 exhausted, selecting sites for afforestation and reforestation shall adhere to the following
10 sequence:

11 a. Use techniques to enhance existing, on-site forest and involve selective clearing and
12 supplemental planting on-site in accordance with a forest conservation plan using one or
13 more of the following:

- 14 (1) Transplanted or nursery stock that is greater than 1.5 inches diameter measured
15 at 4.5 feet above the ground; or
- 16 (2) Whip or seedling stock; or
- 17 (3) Natural regeneration where it can be shown to adequately meet the objective of
18 the Forest Conservation Technical Manual.

19 b. If an applicant demonstrates that no reasonable on-site afforestation or reforestation
20 alternatives exist or where all on-site priority areas for afforestation or reforestation have
21 been planted, off-site afforestation or reforestation may be utilized for land in the same
22 watershed in accordance with a forest conservation plan using one or more of the
23 following techniques:

- 24 (1) Transplanted or nursery stock that is greater than 1.5 inches diameter measured
25 at 4.5 feet above the ground; or
- 26 (2) Whip or seedling stock; or
- 27 (3) Natural regeneration where it can be shown to adequately meet the objective of
28 the Forest Conservation Technical Manual.

29 c. Within Development Districts, Town Centers, and Village Centers, the following are
30 allowed:

- 31 (1) Use of street trees may be granted full credit as a mitigation technique, and
- 32 (2) Acquisition of an off-site protection easement on existing forest not currently
33 protected, in perpetuity, provided the afforestation and reforestation credit
34 granted may not exceed 50 percent of the area of forest cover protected, is
35 allowed.

36 d. When all other options, both on-site and off-site, have been exhausted, landscaping may
37 be used as a mitigation technique conducted under an approved landscaping plan that
38 establishes a forest that is at least 35 feet wide and covering 2,500 square feet or more of
39 area.

40 2. *Exception.* A sequence other than that described in Section 75.9.1 above may be used for a
41 specific project, if necessary, to achieve the objectives of the County land use plan or County land
42 use policies or to take advantage of opportunities to consolidate forest conservation efforts.

43 3. *Methods.* Afforestation or reforestation requirements shall be met using one or more of the
44 following methods:

45 a. Establishment or enhancement of forest buffers adjacent to intermittent and perennial
46 streams to widths of at least 50 feet from the top of each normal bank.

- 1 b. Establishment or an increase in existing forested corridors to connect existing forests
2 within or adjacent to the site. Where practicable, forested corridors should be a minimum
3 of 300 feet in width to facilitate wildlife movement.
- 4 c. Establishment or enhancement forest buffers adjacent to critical habitats designated by
5 the Department of Natural Resources or by the County.
- 6 d. Establishment or enhancement of forested areas on 100-year floodplains.
- 7 e. Establishment of plantings to stabilize slopes of 25 percent or greater and slopes of 15
8 percent or greater with a soil K value greater than 0.35, including the slopes of ravines or
9 other natural depressions.
- 10 f. Establishment of buffers adjacent to areas of differing land use, or adjacent to highways
11 or utility rights-of-way.
- 12 g. Establishment of forest areas adjacent to existing forests to increase the overall area of
13 contiguous forest cover.
- 14 4. *Forest and Tree Protection Standards.* Planning for protection of retained, afforested, and
15 reforested trees and forest, the devices and methods used to prevent damage from construction
16 activity and instruments for long-term protection shall at a minimum comply with the procedures
17 and standards provided in the Forest Conservation Technical Manual (Chapters 3.2 and 3.3 and the
18 Appendix) and the following provisions:
 - 19 a. Protection from Construction Activities.
 - 20 (1) The applicant shall prepare a forest and tree protection plan.
 - 21 (2) Before cutting, clearing, grading, or construction begins on a site for which an
22 FCP is required by this article, the applicant shall demonstrate to the
23 Department of Land Use and Growth Management that protective devices
24 have been established in the field and inspected prior to the commencement
25 of construction.
 - 26 b. Long- term Protection Instruments.
 - 27 (1) Submittal requirements. The applicant shall provide long term agreements,
28 approved by the County, that, at a minimum:
 - 29 (a) Define and limit the uses and management techniques in the retention
30 and planting areas; and
 - 31 (b) Preserve the priority forests and priority areas specified in the FCP; and
 - 32 (c) Are binding on all parties; and
 - 33 (d) Are in place at all times after the completion of the development.
 - 34 (2) Acceptable instruments may include:
 - 35 (a) Perpetual conservation easements held by a third party responsible for
36 monitoring and enforcing the terms of the easement; or
 - 37 (b) Deed restrictions recorded in the County land records and enforced by
38 the County; or
 - 39 (c) Covenants recorded with the deeds and running with the land and
40 enforced by landowners as parties to the covenant; or
 - 41 (d) A legally binding Forest Management or Stewardship Plan prepared by
42 a professional forester licensed by the State of Maryland and approved
43 by the MDNR Forest Service, including a binding agreement to ensure
44 that the Plan will be followed; or

- 1 (e) A forest conservation and management agreement between the
2 landowner and the Maryland Department of Natural Resources.
- 3 5. *Submittals.* A planting plan for afforestation or reforestation shall be developed that complies with
4 the procedures and standards provided in the Forest Conservation Technical Manual.
- 5 6. *Time Periods.* A person required to conduct afforestation or reforestation under this article shall
6 accomplish it within one year or two growing seasons, whichever is a greater time period,
7 following completion of the development project.
- 8 **75.10. Payment Instead of Afforestation and Reforestation**
- 9 1. Forest Conservation Fund.
- 10 a. A countywide Forest Conservation Fund is hereby established.
- 11 b. Money deposited in this fund shall be used to accomplish reforestation or afforestation
12 within two years or three planting seasons of the time it is deposited, whichever is a
13 greater time period:
- 14 (1) The money may be spent on the costs directly related to reforestation and
15 afforestation, including site identification, acquisition, preparation,
16 maintenance of existing forests and achieving urban canopy goals.
- 17 (2) The money shall not revert to the general fund.
- 18 (3) Any part that has not been used to meet the afforestation or reforestation
19 requirements within the period shall be transferred to the County's Forest
20 Conservation Cost Share Program.
- 21 c. If a person demonstrates to the satisfaction of the Department of Land Use and Growth
22 Management that requirements for reforestation or afforestation on-site or off-site cannot
23 be reasonably accomplished, the person shall contribute money, at a rate per square foot
24 of the area of required planting, into the countywide Forest Conservation Fund as
25 specified in the schedule of fees, fines, and penalties adopted by the County
26 Commissioners.
- 27 d. Money contributed instead of afforestation or reforestation shall be paid as follows:
- 28 (1) For subdivisions, payment shall be made prior to recording of the subdivision
29 plat.
- 30 (2) For site plans, payment shall be made at the time of signature approval of the
31 plan.
- 32 e. Adjustments to the amount may be made based on the site inspection prior to issuance of
33 occupancy permits for the development.
- 34 f. Fees may be refunded only upon an applicant's request made within one year or two
35 growing seasons, whichever is a greater time period, and demonstration that afforestation
36 or reforestation requirements per this Ordinance have been accomplished on-site or off-
37 site by the applicant.
- 38 g. Sites for Afforestation or Reforestation Using Fund Money.
- 39 (1) Except as provided in this chapter, the reforestation or afforestation shall occur
40 in the County within the watershed in which the project is located.
- 41 (2) If the reforestation or afforestation cannot be reasonably accomplished in the
42 County and watershed in which the project is located, then the reforestation
43 or afforestation may occur in an adjacent County or watershed in Maryland.
- 44 2. Forest mitigation bank.
- 45 a. Use of Forest Mitigation Bank.

- 1 (1) If a person subject to this Ordinance demonstrates to the satisfaction of the
2 Department of Land Use and Growth Management that requirements for
3 reforestation or afforestation on-site or off-site cannot be reasonably
4 accomplished, the person may use credits from a forest mitigation bank. A
5 credit is required for each tenth of an acre of required planting.
- 6 (2) The credits shall be debited from an approved forest mitigation bank within 90
7 calendar days after development project approval.
- 8 b. Establishing Forest Mitigation Banks.
- 9 (1) A person may create a forest mitigation bank from which applicants may
10 purchase or otherwise acquire credits to meet the afforestation and
11 reforestation requirements of this Ordinance.
- 12 (2) A forest mitigation bank shall:
- 13 (a) Afforest or reforest an area of land in accordance with a forest
14 mitigation bank agreement.
- 15 (b) Be comprised of:
- 16 1. Enhanced forested buffers adjacent to intermittent and
17 perennial streams and coastal bays to widths of at least 50 feet;
18 or
- 19 2. Forested corridors 300 feet or as neatly as practicable in width
20 to facilitate wildlife movement and to connect existing forests
21 within or adjacent to the site; or
- 22 3. Forest buffers adjacent to critical habitats where appropriate;
23 or
- 24 4. Forested areas in 100-year floodplains; or
- 25 5. Forested slopes of 25 percent or greater; or
- 26 6. Slopes of 15 percent or greater with a soil K value greater than
27 0.35 including the slopes of ravines or other natural
28 depressions; or
- 29 7. Buffers adjacent to areas of differing land use adjacent to
30 highways or utility rights-of-way; or
- 31 8. Areas adjacent to existing forests that increase the overall area
32 of contiguous forest cover.
- 33 (c) Be protected by an easement, deed restrictions, or covenants that
34 require the land in the bank to remain forested in perpetuity and are
35 enforceable by the Department of Land Use and Growth Management
36 and the Department of Natural Resources.
- 37 (d) Limit the use of the land in the bank to activities that are not
38 inconsistent with forest conservation such as recreational activities,
39 forest management under a forest conservation and management
40 program under Tax-Property Article, §8-211, Annotated Code of
41 Maryland, or activities specified in a forest management plan prepared
42 by a licensed forester and approved by the Department of Land Use and
43 Growth Management.
- 44 (e) Use plant materials for afforestation or reforestation approved by the
45 Planning Director.

- 1 c. A person proposing to create a forest mitigation bank shall submit to the Department of
2 Land Use and Growth Management:
 - 3 (1) A completed application on a form approved by the Department that has been
4 signed by an authorized individual in conformance with COMAR
5 08.19.04.02I.
 - 6 (2) A forest mitigation bank plan that contains a:
 - 7 (a) Vicinity map of the proposed mitigation bank site.
 - 8 (b) Simplified forest stand delineation that meets the criteria in COMAR
9 08.19.04-02.
 - 10 (c) Detailed afforestation or reforestation plan prepared by a licensed
11 Maryland forester, a licensed landscape architect, or a qualified
12 professional who meets the requirements stated in COMAR
13 08.19.06.01A. This plan shall include a timetable, description of the
14 site and soil preparation needed, and species, size, and spacing to be
15 utilized.
 - 16 (d) Proposed two-year maintenance agreement that:
 - 17 1. Sets forth how the areas afforested or reforested will be
18 maintained to ensure protection and satisfactory
19 establishment; and
 - 20 2. Complies with COMAR 08.19.04.05C(4)(a); and
 - 21 3. Includes watering and reinforcement planting provisions if
22 survival falls below required standards.
 - 23 (e) Copy of the deed to the property.
 - 24 (f) Survey or other legally sufficient description of the bank site for
25 inclusion in the deeds of easement, deed restrictions, or covenants.
 - 26 (g) Title report or other assurance that:
 - 27 1. The property is not encumbered by any covenants or other
28 types of restrictions that would impair the property's use as a
29 forest mitigation bank; and
 - 30 2. There is legally sufficient access to the forest mitigation bank
31 site that can be used by the Department of Land Use and
32 Growth Management and its assignees to inspect the forest
33 mitigation bank; and
 - 34 3. Description of the system to be used by the person owning and
35 operating the forest mitigation bank to identify and keep track
36 of which portions of the bank have been debited to meet an
37 applicant's off-site afforestation or reforestation requirements.
- 38 d. The owner of an approved forest mitigation bank shall enter into an agreement with the
39 Department of Land Use and Growth Management that contains:
 - 40 (1) The approved forest conservation, reforestation or afforestation plan; and
 - 41 (2) An approved system for marking and tracking which portions of the bank have
42 been debited; and
 - 43 (3) An acknowledgment that the bank may not debit any portion of afforested or
44 reforested land until two years of successful growth has been achieved
45 unless the banker has planted 25 percent more area than the area of the
46 debited tract and posted a bond or alternate form of security.

- 1 **75.11. Financial Security for Afforestation and Reforestation.**
- 2 1. Bonding.
- 3 a. A person required to conduct afforestation or reforestation under this chapter shall furnish
- 4 financial security in the form of a bond, an irrevocable letter of credit, or other security
- 5 approved by the Department of Land Use and Growth Management. The surety shall:
- 6 (1) Assure that the afforestation, reforestation, and associated maintenance
- 7 agreement are conducted and maintained in accordance with the approved
- 8 FCP; and
- 9 (2) Be in an amount equal to the estimated cost, as determined by the Department of
- 10 Land Use and Growth Management, of afforestation and reforestation; and
- 11 (3) Be in a form and of a content approved by the Department of Land Use and
- 12 Growth Management.
- 13 b. After one growing season, the person required to file a bond may request reduction of the
- 14 amount of the bond or other financial security by submitting a written request to the
- 15 Department of Land Use and Growth Management with a justification for reducing the
- 16 bond or other financial security amount, including estimated or actual costs to ensure
- 17 afforestation or reforestation requirements are met.
- 18 c. The Department of Land Use and Growth Management shall determine whether a lesser
- 19 amount is sufficient to cover the cost of afforestation or reforestation, taking into account
- 20 the following:
- 21 (1) The number of acres; and
- 22 (2) The proposed method of afforestation or reforestation; and
- 23 (3) The cost of planting materials or replacement materials; and
- 24 (4) The cost of maintenance of the afforestation or reforestation project; and
- 25 (5) Other relevant factors.
- 26 d. If, after two growing seasons, the plantings associated with the afforestation or
- 27 reforestation meet or exceed the standards of the Forest Conservation Technical Manual,
- 28 the amount of the cash bond, letter of credit, surety bond, or other security shall be
- 29 returned or released.
- 30 **75.12. Forest Conservation Cost Share Program.**
- 31 1. A countywide Forest Conservation Cost Share Program is hereby established to encourage the
- 32 planting and maintenance of forested buffers, floodplains, and erodible land around the
- 33 Chesapeake Bay and its tributaries. This program is to serve as an incentive for planting these
- 34 buffers on private land and to help defray the landowners costs for establishing and maintaining
- 35 them.
- 36 2. Land Eligible for Participation.
- 37 a. The following lands are eligible for participation in the St. Mary's Forest Conservation
- 38 Cost Share Program: Any area or privately owned land of at least one acre and not more
- 39 than 50 acres that is:
- 40 (1) A crop field;
- 41 (2) Pasture field;
- 42 (3) Other open area of bare ground; or
- 43 (4) Early successional vegetation.
- 44 b. In addition to meeting the qualifications of Section 75.12.4 below, eligible lands must
- 45 meet one of the following criteria:

- 1 (1) Location within 300 feet of a stream, river, pond, tidal or non-tidal wetland, or
2 other open water. (Such stream, river, pond or other open water must
3 appear on a U.S.G.S. 7.5 Minute Quad map or have flowing water for any
4 one-month period during the year. A wetland must appear on a U.S. Fish
5 and Wildlife Service or Department of Natural Resources wetlands map or
6 be otherwise classifiable as a wetland based on current state criteria).
- 7 (2) Location within 300 feet plus four feet for every 1 percent slope for slopes
8 averaging greater than 6 percent; or
- 9 (3) Location within the 100-year floodplain as shown on a F.I.R.M. flood insurance
10 map.
- 11 c. If two-thirds of an agricultural field qualifies under the above criteria, the entire field will
12 be eligible.
- 13 d. Determination of eligibility and extent of a planting site, approval of the applicant's
14 proposed measures, and approval of completion shall rest with the Department of Land
15 Use and Growth Management.
- 16 3. This program may NOT apply to:
- 17 a. Reforestation of harvested or recently cleared forestland; or
- 18 b. To any planting required by law or regulation; or
- 19 c. To the establishment of orchards or Christmas tree farms; or
- 20 d. Lands that have recently been treated with herbicides or pesticides that are inconsistent
21 with the tree species specified in the planting plan.
- 22 4. Additional Eligibility Requirements.
- 23 a. Planting sites that receive funding through this program may also receive cost-share or
24 other financial assistance through Maryland state programs such as the Forestry Incentive
25 Program (FIP) or Conservation Reserve Program (CRP), but not both for the same
26 planting.
- 27 b. The minimum proposed buffer width is to be 50 feet. Existing forest can be incorporated
28 into the buffer. For example, if a 20-foot buffer already exists, an additional 30 feet may
29 be planted to create the minimum 50-foot buffer. There is no minimum length however,
30 there is a one-acre minimum planting size.
- 31 c. At the end of the spring planting season, the local inspector will inspect the planting site
32 to determine if site-preparation and planting have been successfully carried out.
- 33 d. In the fall or winter following planting, the local inspector will inspect the planting site to
34 determine if survival is adequate and measures for maintenance and protection of the
35 trees are being taken as needed. Minimum acceptable survival is 75 percent, which
36 means that 75 percent of the trees planted are healthy and free to grow. No payment will
37 be made until the minimum acceptable survival rate has been attained.
- 38 e. A landowner may perform a reinforcement planting on a field recently planted to trees
39 but of deficient stocking, to bring the stocking level up to the previously prescribed level
40 and qualify to obtain final reimbursement. To receive payment, the planting must meet
41 the 75 percent minimum acceptable survival rate after one growing season.
- 42 f. Critical Area lands may be eligible for the Forest Conservation Cost Share Program
43 provided the planting is approved by the Department of Land Use and Growth
44 Management.
- 45 5. Application Process.
- 46 a. An eligible landowner seeking cost-share assistance shall submit:

- 1 (1) A written request to the Department of Land Use and Growth Management with
2 the following information:
- 3 (a) Name, address, and telephone number of the landowner.
- 4 (b) Location (Tax ID and Map reference) of the tract upon which the
5 forestry practice will be implemented.
- 6 (c) Description of the planting, and the estimated unit cost and total cost
7 for which application is made (with supporting cost estimates for
8 materials and labor).
- 9 (d) Proposed schedule for accomplishing planting (not to exceed three
10 years).
- 11 (e) A map of the proposed site, prepared with the assistance of the local
12 Forestry Service office.
- 13 (f) A statement of requirements/recommendations for site preparation,
14 method of planting, spacing, species, weed control, or other measures
15 needed to successfully establish trees and/or shrubs on the site.
- 16 b. The Department of Land Use and Growth Management will require implementation and
17 recording of a planting and maintenance agreement as a condition of approval for cost
18 share awards. The landowner must agree at the time of application to carry out the
19 planting according to the plan, to maintain the planting in perpetuity and to allow the
20 Department to inspect for compliance.
- 21 c. The agreement shall specify at a minimum that the landowner agrees to:
- 22 (1) Complete the approved planting within the time period specified by the
23 Department; and
- 24 (2) Accept the cost-share payment not to exceed 80 percent of actual expenses as
25 determined by the designated representative of the Department; and
- 26 (3) Hold the County and Department harmless from liability for occurrences arising
27 during inspections by representatives of the Department on official
28 business.
- 29 d. The Department shall notify each landowner whether the application has been approved
30 or disapproved within 60 calendar days of receipt of the application.
- 31 6. Payments to Landowners from the Forest Conservation Fund.
- 32 a. The Department of Land Use and Growth Management shall disburse payments to
33 eligible landowners within a reasonable time after:
- 34 (1) The Department has received proof of expenses from the landowner that the
35 Department is able to determine are correct and justified; and
- 36 (2) A representative of the Department has inspected the woodland tract and
37 approved the implementation of the forestry practices.
- 38 b. Limitation on Assistance.
- 39 (1) An eligible landowner may not receive more than \$5,000 in a calendar year for
40 all approved forestry practices implemented by the landowner, unless the
41 Department has approved a three-year plan.
- 42 (2) If the Department has approved a three-year plan, an eligible landowner may not
43 receive more than \$15,000 during the three-year period for all approved
44 forestry practices implemented by the landowner.

11/18/2014

1 **CHAPTER 76 FLOODPLAIN REGULATIONS**

2 Sections:

- 3 76.1 General Provisions
- 4 76.2 Definitions
- 5 76.3 Administration
- 6 76.4 Requirements in All Flood Hazard Areas
- 7 76.5 Requirements in Flood Hazard Areas (A Zones) that are Not Coastal High Hazard Areas
- 8 (V Zones) or Coastal A Zones
- 9 76.6 Requirements in Coastal High Hazard Areas (V Zones) and Coastal A Zones
- 10 76.7 Variances
- 11 76.8 Enforcement

12 **76.1. General Provisions**

13 1. Findings

14 The Federal Emergency Management Agency has identified special flood hazard areas within the
15 boundaries of St. Mary's County, MD. Special flood hazard areas are subject to periodic
16 inundation which may result in loss of life and property, health and safety hazards, disruption of
17 commerce and governmental services, extraordinary public expenditures for flood protection and
18 relief, and impairment of the tax base, all of which adversely affect the public health, safety and
19 general welfare. Structures that are inadequately elevated, improperly floodproofed, or otherwise
20 unprotected from flood damage also contribute to flood losses.

21 *The Board of County Commissioners for St. Mary's County*, by resolution, agreed to meet the
22 requirements of the National Flood Insurance Program and St. Mary's County, MD was accepted
23 for participation in the program on February 19, 1987. As of that date, all *development* and *new*
24 *construction* as defined herein, are to be compliant with these regulations.

25 2. Statutory Authorization

26 The regulations of this Chapter have been adopted in accordance with the requirements of
27 44C.F.R. §60.2.*et seq.*

28 3. Statement of Purpose

29 It is the purpose of these regulations to promote the public health, safety and general welfare, and
30 to:

- 31 1. Protect human life, health and welfare;
- 32 2. Encourage the utilization of appropriate construction practices in order to prevent or
33 minimize flood damage in the future;
- 34 3. Minimize *flooding* of water supply and sanitary sewage disposal systems;
- 35 4. Maintain natural drainage;
- 36 5. Reduce financial burdens imposed on the *community*, its governmental units and its
37 residents, by discouraging unwise design and construction of *development* in areas
38 subject to *flooding*;
- 39 6. Minimize the need for rescue and relief efforts associated with *flooding* and generally
40 undertaken at the expense of the general public;
- 41 7. Minimize prolonged business interruptions;
- 42 8. Minimize damage to public facilities and other utilities such as water and gas mains,
43 electric, telephone and sewer lines, streets and bridges;

- 1 9. Reinforce that those who build in and occupy *special flood hazard areas* should assume
2 responsibility for their actions;
- 3 10. Minimize the impact of *development* on adjacent properties within and near *flood-prone*
4 areas;
- 5 11. Provide that the *flood* storage and conveyance functions of *floodplains* are maintained;
- 6 12. Minimize the impact of *development* on the natural and beneficial functions of
7 *floodplains*;
- 8 13. Prevent *floodplain* uses that are either hazardous or environmentally incompatible; and
- 9 14. Meet community participation requirements of the National Flood Insurance Program as
10 set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

11 4. Areas to Which These Regulations Apply

12 These regulations shall apply to all special flood hazard areas within the jurisdiction of St. Mary's
13 County identified in Section 76.1.5, below.

14 5. Basis for Establishing Special Flood Hazard Areas and BFEs

- 15 1. For the purposes of these regulations, the minimum basis for establishing special flood
16 hazard areas and base flood elevations is the Flood Insurance Study for St. Mary's
17 County, Maryland and Incorporated Areas dated October 19, 2004 and November 19,
18 2014, or the most recent revision thereof, and the accompanying Flood Insurance Rate
19 Map(s) and all subsequent amendments and revisions to the FIRMs. The FIS and FIRMs
20 are retained on file and available to the public at the Department of Land Use and Growth
21 Management.
- 22 2. Where field surveyed topography or digital topography indicates that ground elevations
23 are below the closest applicable base flood elevation, even in areas not delineated as a
24 special flood hazard on the FIRM, the area shall be considered as special flood hazard
25 area.
- 26 3. To establish base flood elevations in special flood hazard areas that do not have such
27 elevations shown on the FIRM, the Floodplain Administrator may:
 - 28 a. Provide the best available data for base flood elevations, or
 - 29 b. Require the applicant to obtain available information from Federal, State or
30 other sources, or
 - 31 c. May require the applicant to establish special flood hazard areas and base flood
32 elevations as set forth in Section 76.3.3, Section 76.3.4, and Section 76.3.5 of
33 these regulations.

34 6. Abrogation and Greater Restrictions

35 These regulations are not intended to repeal or abrogate any existing regulations and ordinances,
36 including subdivision regulations, zoning ordinances, building codes, or any existing easements,
37 covenants, or deed restrictions. In the event of a conflict between these regulations and any other
38 ordinance, the more restrictive shall govern.

39 7. Interpretation

40 In the interpretation and application of these regulations, all provisions shall be:

- 41 a. Considered as minimum requirements;
- 42 b. Liberally construed in favor of the governing body; and
- 43 c. Deemed neither to limit nor repeal any other powers granted under State statutes.

- 1 8. Warning and Disclaimer of Liability
2 The degree of flood protection required by these regulations is considered reasonable for
3 regulatory purposes and is based on scientific and engineering considerations. Larger floods can
4 and will occur, and flood heights may be increased by man-made or natural causes. These
5 regulations do not imply that land outside of the special flood hazard areas or uses that are
6 permitted within such areas will be free from flooding or flood damage.
- 7 These regulations shall not create liability on the part of St. Mary's County, any officer or
8 employee thereof, the Maryland Department of the Environment (MDE) or the Federal
9 Emergency Management Agency (FEMA), for any flood damage that results from reliance on
10 these regulations or any administrative decision lawfully made hereunder.
- 11 9. Severability
12 Should any section or provision of these regulations be declared by the courts to be
13 unconstitutional or invalid, such decision shall not affect the validity of the regulations as a
14 whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
- 15 **76.2. Definitions**
16 The definitions of this section apply specifically to the provisions of this Chapter and shall
17 supersede the meaning found in Article 9 for the purposes of floodplain regulation. Unless
18 specifically defined below, words or phrases used in this Chapter shall be interpreted to have the
19 meaning found in Article 9, and, if not defined in Article 9, shall be interpreted to have the
20 meaning they have in common usage and to give these regulations the most reasonable
21 application.
- 22 1. Accessory Structure: A detached building or structure on the same lot with, and of a nature
23 customarily incidental and subordinate to, the principal structure. For the purposes of these
24 regulations, an accessory structure shall be used solely for parking of vehicles and limited
25 storage.
- 26 2. Agreement to Submit an Elevation Certificate: A form on which the applicant for a permit to
27 construct a building or structure, to construct certain horizontal additions, to place or replace a
28 manufactured home, to substantially improve a building, structure, or manufactured home,
29 agrees to have an Elevation Certificate prepared by a licensed professional engineer or
30 licensed professional surveyor, as specified by the Floodplain Administrator. A signed
31 agreement must be submitted to the County before a permit will be issued.
- 32 3. Alteration of a Watercourse: For the purpose of these regulations, alteration of a watercourse
33 includes, but is not limited to widening, deepening or relocating the channel, including
34 excavation or filling of the channel. Alteration of a watercourse does not include construction
35 of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be
36 realigned or relocated as part of such construction.
- 37 4. Area of Shallow Flooding: A designated Zone AO on the Flood Insurance Rate Map with a 1-
38 percent annual chance or greater of flooding to an average depth of one to three feet where a
39 clearly defined channel does not exist, where the path of flooding is unpredictable, and where
40 velocity flow may be evident; such flooding is characterized by ponding or sheet flow.
- 41 5. Base Building: The building to which an addition is being added. This term is used in
42 provisions relating to additions.
- 43 6. Base Flood: The flood having a one-percent chance of being equaled or exceeded in any
44 given year; the base flood also is referred to as the 1-percent annual chance (100-year) flood.
- 45 7. Base Flood Elevation: The water surface elevation of the base flood in relation to the datum
46 specified on the community's Flood Insurance Rate Map. In areas of shallow flooding, the
47 base flood elevation is the highest adjacent natural grade elevation plus the depth number
48 specified in feet on the Flood Insurance Rate Map, or at least four (4) feet if the depth number
49 is not specified.

- 1 8. Basement: Any area of the building having its floor subgrade (below ground level) on all
2 sides.
- 3 9. Building Code(s): The effective Maryland Building Performance Standards (COMAR
4 05.02.07) with local amendments.
- 5 10. Coastal A Zone: An area within a special flood hazard area, landward of a coastal high hazard
6 area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which
7 the principal source(s) of flooding are astronomical tides and storm surges, and in which,
8 during base flood conditions, the potential exists for breaking waves with heights greater than
9 or equal to 1.5 feet. The landward limit of the Coastal A Zone is delineated on FIRMs as the
10 Limit of Moderate Wave Action (LiMWA).
- 11 11. Coastal High Hazard Area: An area of special flood hazard extending from offshore to the
12 inland limit of a primary frontal dune along an open coast and any other area subject to high
13 velocity wave action from storms. Coastal high hazard areas also are referred to as "V Zones"
14 and are designated on FIRMs as zones VE or V1-30.
- 15 12. Critical and Essential Facilities: Buildings and other structures that are intended to remain
16 operational in the event of extreme environmental loading from flood, wind, snow or
17 earthquakes. Critical and essential facilities typically include hospitals, fire stations, police
18 stations, storage of critical records, facilities that handle or store hazardous materials, and
19 similar facilities.
- 20 13. Declaration of Land Restriction (Non-Conversion Agreement): A form signed by the owner
21 to agree not to convert or modify in any manner that is inconsistent with the terms of the
22 permit and these regulations, certain enclosures below the lowest floor of elevated buildings
23 and certain accessory structures. The form requires the owner to record it on the property
24 deed to inform future owners of the restrictions.
- 25 14. Development: Any manmade change to improved or unimproved real estate, including but
26 not limited to buildings or other structures, placement of manufactured homes, mining,
27 dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or
28 materials.
- 29 15. Elevation Certificate: FEMA Form 086-0-33 on which surveyed elevations and other data
30 pertinent to a property and a building are identified and which shall be completed by a
31 licensed professional land surveyor or a licensed professional engineer, as specified by the
32 Floodplain Administrator. When used to document the height above grade of buildings in
33 special flood hazard areas for which base flood elevation data are not available, the Elevation
34 Certificate shall be completed in accordance with the instructions issued by FEMA.
- 35 16. Enclosure Below the Lowest Floor: An unfinished or flood-resistant enclosure that is located
36 below an elevated building, is surrounded by walls on all sides, and is usable solely for
37 parking of vehicles, building access or storage, in an area other than a basement area,
38 provided that such enclosure is built in accordance with the applicable design requirements
39 specified in these regulations. Also see "Lowest Floor."
- 40 17. Structures for which the "start of construction" commenced before February 19, 1987 (the
41 initial effective date of the St. Mary's County Flood Insurance Rate Map). The date for the
42 "start of construction" is the date a permit was issued by the County. The Flood Administrator
43 may require verification that the construction was completed. The primary source for
44 verification of proof of construction will be County records. "Existing construction" may also
45 be referred to as "existing structures" or "Pre-FIRM structures."
- 46 18. Reserved
- 47 19. Federal Emergency Management Agency (FEMA): The Federal agency with the overall
48 responsibility for administering the National Flood Insurance Program.
- 49 20. Flood or Flooding: A general and temporary condition of partial or complete inundation of
50 normally dry land areas from:

- 1 a. The overflow of inland or tidal waters, or
- 2 b. The unusual and rapid accumulation or runoff of surface waters from any source.
- 3 21. Flood Damage-Resistant Materials: Any construction material that is capable of withstanding
- 4 direct and prolonged contact with floodwaters without sustaining any damage that requires
- 5 more than cosmetic repair.
- 6 22. Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency
- 7 Management Agency has delineated special flood hazard areas to indicate the magnitude and
- 8 nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if
- 9 applicable. FIRMs that have been prepared in digital format or converted to digital format are
- 10 referred to as Digital FIRMs (DFIRM).
- 11 23. Flood Insurance Study (FIS): The official report in which the Federal Emergency
- 12 Management Agency has provided flood profiles, floodway information, and the water
- 13 surface elevations.
- 14 24. Flood Opening: A flood opening (non-engineered) is an opening that is used to meet the
- 15 prescriptive requirement of 1 square inch of net open area for every square foot of enclosed
- 16 area. An engineered flood opening is an opening that is designed and certified by a licensed
- 17 professional engineer or licensed architect as meeting certain performance characteristics,
- 18 including providing automatic entry and exit of floodwaters; this certification requirement
- 19 may be satisfied by an individual certification for a specific structure or issuance of an
- 20 Evaluation Report by the ICC Evaluation Service, Inc.
- 21 25. Flood Protection Elevation (FPE): The base flood elevation plus three (3) feet of freeboard.
- 22 Structures in the Special Flood Hazard Area shall have the lowest floor, including basement,
- 23 elevated to the Flood Protection Elevation. The Flood Protection Elevation also applies to all
- 24 mechanical and electrical equipment, including duct work, electrical utility service entrance,
- 25 meters, panels, outlets, and switches.
- 26 26. Flood Protection Setback: A distance measured perpendicular to the top of bank of a
- 27 watercourse that delineates an area to be left undisturbed to minimize future flood damage
- 28 and to recognize the potential for bank erosion. Along nontidal waters of the State, the flood
- 29 protection setback is:
- 30 a. 100 feet, if the watercourse has special flood hazard areas shown on the FIRM,
- 31 except where the setback extends beyond the boundary of the flood hazard area; or
- 32 b. 50 feet, if the watercourse does not have special flood hazard areas shown on the
- 33 FIRM.
- 34 27. Flood Zone: A designation for areas that are shown on Flood Insurance Rate Maps:
- 35 a. Zone A: Special flood hazard areas subject to inundation by the 1-percent annual
- 36 chance (100-year) flood; base flood elevations are not determined.
- 37 b. Zone AE: Special flood hazard areas subject to inundation by the 1-percent annual
- 38 chance (100-year) flood; base flood elevations are determined; floodways may or
- 39 may not be determined. In areas subject to tidal flooding, the Limit of Moderate
- 40 Wave Action (LimWA) is delineated to define the landward limit of the Coastal A
- 41 zone.
- 42 c. Zone AH and Zone AO: Areas of shallow flooding, with flood depths of 1 to 3 feet
- 43 (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or
- 44 designated flood depths.
- 45 d. Zone X (shaded): Areas subject to inundation by the 0.2-percent annual chance
- 46 (500-year) flood; areas subject to the 1-percent annual chance (100-year) flood with
- 47 average depths of less than 1 foot or with contributing drainage area less than 1
- 48 square mile; and areas protected from the base flood by levees.

- 1 e. Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-
2 30, and X (shaded).
- 3 f. Zone VE: Special flood hazard areas subject to inundation by the 1-percent annual
4 chance (100-year) flood and subject to high velocity wave action (also see coastal
5 high hazard area).
- 6 28. Floodplain: Any land area susceptible to being inundated by water from any source (see
7 definition of “Flood” or “Flooding”).
- 8 29. Floodproofing or Floodproofed: Any combination of structural and nonstructural additions,
9 changes, or adjustments to buildings or structures which reduce or eliminate flood damage to
10 real estate or improved real property, water and sanitary facilities, structures and their
11 contents, such that the buildings or structures are watertight with walls substantially
12 impermeable to the passage of water and with structural components having the capability of
13 resisting hydrostatic and hydrodynamic loads and effects of buoyancy. State regulations at
14 COMAR 26.17.04.11(B)(7) do not allow new nonresidential buildings in nontidal waters of
15 the State to be floodproofed.
- 16 30. Floodproofing Certificate: FEMA Form 086-0-34 that is to be completed, signed and sealed
17 by a licensed professional engineer or licensed architect to certify that the design of
18 floodproofing and proposed methods of construction are in accordance with the applicable
19 requirements of Section 76.5.5.b of these regulations.
- 20 31. Floodway: The channel of a river or other watercourse and the adjacent land areas that must
21 be reserved in order to pass the base flood discharge such that the cumulative increase in the
22 water surface elevation of the base flood discharge is no more than a designated height.
23 When shown on a FIRM, the floodway is referred to as the “designated floodway.”
- 24 32. Freeboard: A margin of safety that compensates for uncertainty in the factors that could
25 contribute to flood heights greater than the height calculated for a selected size flood and
26 floodway conditions. Factors of uncertainty include wave action, obstructed bridge openings,
27 debris and ice jams, sea level rise, storm intensity, and the hydrologic effect of urbanization in
28 a watershed.
- 29 33. Free-of-Obstruction: A term that describes open foundations (pilings, columns, or piers)
30 without attached elements or foundation components that would obstruct the free passage of
31 floodwaters and waves beneath structures that are elevated on such foundations.
- 32 34. Functionally Dependent Use: A use which cannot perform its intended purpose unless it is
33 located or carried out in close proximity to water; the term includes only docking facilities,
34 port facilities that are necessary for the loading and unloading of cargo (including seafood) or
35 passengers, and ship building and ship repair facilities, but does not include long-term storage
36 or related manufacturing facilities.
- 37 35. Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to
38 construction, next to the proposed foundation of a structure.
- 39 36. Historic Structure: Any structure that is:
- 40 a. Individually listed in the National Register of Historic Places (a listing maintained by
41 the U.S. Department of Interior) or preliminarily determined by the Secretary of the
42 Interior as meeting the requirements for individual listings on the National Register;
- 43 b. Certified or preliminarily determined by the Secretary of the Interior as contributing
44 to the historical significance of a registered historic district or a district preliminarily
45 determined by the Secretary to qualify as a registered historic district;
- 46 c. Individually listed on the Maryland Register of Historic Places maintained by the
47 Maryland Historical Trust; or

- 1 d. Individually listed on the inventory of historic places maintained by St. Mary's
2 County, through the authority provided to the County as a Certified Local
3 Government for Historic Preservation as designated by the Secretary of the Interior.
- 4 37. Hydrologic and Hydraulic Engineering Analyses: Analyses performed by a licensed
5 professional engineer, in accordance with standard engineering practices that are accepted by
6 the Maryland Department of the Environment (Nontidal Wetlands & Waterways) and FEMA,
7 used to determine the base flood, other frequency floods, flood elevations, floodway
8 information and boundaries, and flood profiles.
- 9 38. Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination,
10 by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance
11 Study. Letters of Map Change include:
- 12 a. Letter of Map Amendment (LOMA): An amendment based on technical data
13 showing that a property was incorrectly included in a designated special flood hazard
14 area. A LOMA amends the current effective Flood Insurance Rate Map and
15 establishes that a specific property or structure is not located in a special flood
16 hazard area.
- 17 b. Letter of Map Revision (LOMR): A revision based on technical data that may show
18 changes to flood zones, flood elevations, floodplain and floodway delineations, and
19 planimetric features. A Letter of Map Revision Based on Fill (LOMR-F) is a
20 determination that a structure or parcel of land has been elevated by fill above the
21 base flood elevation and is, therefore, no longer exposed to flooding associated with
22 the base flood. In order to qualify for this determination, the fill must have been
23 permitted and placed in accordance with St. Mary's County's floodplain management
24 regulations.
- 25 c. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to
26 whether a proposed flood protection project or other project complies with the
27 minimum NFIP requirements for such projects with respect to delineation of special
28 flood hazard areas. A Conditional Letter of Map Revision Based on Fill (CLOMR-
29 F) is a determination that a parcel of land or proposed structure that will be elevated
30 by fill would not be inundated by the base flood if fill is placed on the parcel as
31 proposed or the structure is built as proposed. A CLOMR does not revise the
32 effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and
33 approval of certified as-built documentation, a Letter of Map Revision may be issued
34 by FEMA to revise the effective FIRM.
- 35 39. Licensed: As used in these regulations, licensed refers to professionals who are authorized to
36 practice in the State of Maryland by issuance of licenses by the Maryland Board of Architects,
37 Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors,
38 and the Maryland Real Estate Appraisers and Home Inspectors Commission.
- 39 40. Limit of Moderate Wave Action (LiMWA): Inland limit of the area affected by waves greater
40 than 1.5 feet during the base flood. Base flood conditions between the VE Zone and the
41 LiMWA will be similar to, but less severe than those in the VE Zone.
- 42 41. Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a
43 building or structure; the floor of an enclosure below the lowest floor is not the lowest floor
44 provided the enclosure is constructed in accordance with these regulations. The lowest floor
45 of a manufactured home is the bottom of the lowest horizontal supporting member
46 (longitudinal chassis frame beam).
- 47 42. Manufactured Home: A structure, transportable in one or more sections, which is built on a
48 permanent chassis and is designed for use with or without a permanent foundation when
49 connected to the required utilities. The term manufactured home does not include a
50 recreational vehicle.

- 1 43. Market Value: The price at which a property will change hands between a willing buyer and a
2 willing seller, neither party being under compulsion to buy or sell and both having reasonable
3 knowledge of relevant facts. For the purposes of these regulations, the market value of a
4 building is determined by a licensed real estate appraiser or the most recent, full phased-in
5 assessment value of the building (improvement) determined by the Maryland Department of
6 Assessments and Taxation.
- 7 44. Maryland Department of the Environment (MDE): A principal department of the State of
8 Maryland that is charged with, among other responsibilities, the coordination of the National
9 Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of
10 regulatory programs for development and construction that occur within the waters of the
11 State, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal
12 wetlands (Tidal Wetlands). Unless otherwise specified, "MDE" refers to the Department's
13 Wetlands and Waterways Program.
- 14 45. Mixed-use Structure: Any structure that is used or intended for use for a mixture of
15 nonresidential and residential uses in the same structure.
- 16 46. National Flood Insurance Program (NFIP): The program authorized by the U.S. Congress in
17 42 U.S.C. §§4001 - 4129. The NFIP makes flood insurance coverage available in
18 communities that agree to adopt and enforce minimum regulatory requirements for
19 development in areas prone to flooding (see definition of "Special Flood Hazard Area").
- 20 47. Natural Grade: The grade unaffected by construction techniques such as fill, landscaping, or
21 berming.
- 22 48. New Construction: Structures, including additions and improvements, and the placement of
23 manufactured homes, for which the start of construction commenced on or after February 19,
24 1987 (the initial effective date of the St. Mary's County Flood Insurance Rate Map) including
25 any subsequent improvements, alterations, modifications, and additions to such structures.
- 26 49. Nontidal Waters of the State: See "Waters of the State." As used in these regulations,
27 "nontidal waters of the State" refers to any stream or body of water within the State that is
28 subject to State regulation, including the "100-year frequency floodplain of free-flowing
29 waters." COMAR 26.17.04.01 states that "the landward boundaries of any tidal waters shall
30 be deemed coterminous with the wetlands boundary maps adopted pursuant to Environment
31 Article, §16-301, Annotated Code of Maryland." Therefore, the boundary between the tidal
32 and nontidal waters of the State is the tidal wetlands boundary.
- 33 50. Person: An individual or group of individuals, corporation, partnership, association, or any
34 other entity, including State and local governments and agencies.
- 35 51. Post -FIRM structures: See New Construction.
- 36 52. Pre-FIRM structures: See Existing Construction.
- 37 53. Recreational Vehicle: A vehicle that is built on a single chassis, 400 square feet or less when
38 measured at the largest horizontal projection, designed to be self-propelled or permanently
39 towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but
40 as temporary living quarters for recreational, camping, travel, or seasonal use.
- 41 54. Special Flood Hazard Area (SFHA): The land in the floodplain subject to a one-percent or
42 greater chance of flooding in any given year. Special flood hazard areas are designated by the
43 Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance
44 Rate Maps as Zones A, AE, AH, AO, and A99, and Zones VE and V1-30. The term includes
45 areas shown on other flood maps that are identified in Section 75.1.5.
- 46 55. Start of Construction: Structures, including additions and improvements, and the placement
47 of manufactured homes, for which the start of construction commenced on or after February
48 19, 1987, the initial effective date of the St. Mary's County Flood Insurance Rate Map,
49 including any subsequent improvements, alterations, modifications, and additions to such
50 structures.

- 1 The date the building permit was issued, provided the construction, repair, reconstruction,
2 rehabilitation, addition placement, or other improvement was started within 180 days of permit
3 issuance according to County records.
- 4 The actual start means either the first placement of permanent construction of a structure on a site,
5 such as pouring of slab or footings, the installation of piles, the construction of columns, or any
6 work beyond the state of excavation; or the placement of a manufactured home on a foundation.
- 7 For substantial improvements, the actual start of construction means the first alteration of any
8 wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the
9 external dimensions of the building.
- 10 56. Structure: That which is built or constructed; specifically, a walled and roofed building,
11 including gas or liquid storage tank that is principally above ground, as well as a
12 manufactured home.
- 13 57. Substantial Damage: Damage of any origin sustained by a building or structure whereby the
14 cost of restoring the building or structure to its before damaged condition would equal or
15 exceed 50 percent of the market value of the building or structure before the damage
16 occurred. Also used as “substantially damaged” structures.
- 17 58. Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement
18 of a building or structure, the cost of which equals or exceeds 50 percent of the market value
19 of the building or structure before the start of construction of the improvement. Also called
20 “substantially improved” structures. The term includes structures which have incurred
21 substantial damage, regardless of the actual repair work performed. The term does not,
22 however, include either:
- 23 a. Any project for improvement of a building or structure to correct existing violations
24 of State or local health, sanitary, or safety code specifications which have been
25 identified by the local code enforcement official prior to submission of an application
26 for a permit and which are the minimum necessary to assure safe living conditions;
27 or
- 28 b. Any alteration of a historic structure, provided that the alteration will not preclude
29 the structure’s continued designation as a historic structure.
- 30 59. Temporary Structure: A structure installed, used, or erected for a period of less than 180 days.
- 31 60. Violation: Any construction or development in a special flood hazard area that is being
32 performed without an issued permit. The failure of a building, structure, or other
33 development for which a permit is issued to be fully compliant with these regulations and the
34 conditions of the issued permit. A building, structure, or other development without the
35 required design certifications, the Elevation Certificate, or other evidence of compliance
36 required is presumed to be a violation until such time as the required documentation is
37 provided.
- 38 61. Watercourse: The channel, including channel banks and bed, of nontidal waters of the State.
- 39 62. Waters of the State: [See Environment Article, Title 5, Subtitle 1, Annotated Code of
40 Maryland.] Waters of the State include:
- 41 a. Both surface and underground waters within the boundaries of the State subject to its
42 jurisdiction;
- 43 b. That portion of the Atlantic Ocean within the boundaries of the State;
- 44 c. The Chesapeake Bay and its tributaries;
- 45 d. All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage
46 systems within the State, other than those designed and used to collect, convey, or
47 dispose of sanitary sewage; and

- 1 j. Submit to FEMA, or require applicants to submit to FEMA, data and information
2 necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses
3 prepared by or for St. Mary's County, within six months after such data and information
4 becomes available if the analyses indicate changes in base flood elevations or boundaries.
- 5 k. Maintain and permanently keep records that are necessary for the administration of these
6 regulations, including:
- 7 (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies
8 and maps and current effective studies and maps) and Letters of Map Change;
9 and
- 10 (2) Documentation supporting issuance and denial of permits, Elevation
11 Certificates, documentation of the elevation (in relation to the datum on the
12 FIRM) to which structures have been floodproofed, other required design
13 certifications, variances issued prior to November 19, 2014, and records of
14 enforcement actions taken to correct violations of these regulations.
- 15 l. Enforce the provisions of these regulations, investigate violations, issue notices of
16 violations or stop work orders, and require permit holders to take corrective action.
- 17 m. Administer the requirements related to proposed work on existing structures:
- 18 (1) Make determinations as to whether buildings and structures that are located in
19 flood hazard areas and that are damaged by any cause have been substantially
20 damaged.
- 21 (2) Make reasonable efforts to notify owners of substantially damaged structures of
22 the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the
23 non-compliant repair of substantially damaged buildings except for temporary
24 emergency protective measures necessary to secure a property or stabilize a
25 building or structure to prevent additional damage.
- 26 n. Undertake, as determined appropriate by the Floodplain Administrator due to the
27 circumstances, other actions which may include but are not limited to: issuing press
28 releases, public service announcements, and other public information materials providing
29 information related to permit requests and repair of damaged structures; coordinating
30 with other Federal, State, and local agencies to assist with substantial damage
31 determinations; providing owners of damaged structures information related to the proper
32 repair of damaged structures in special flood hazard areas; and assisting property owners
33 with documentation necessary to file claims for Increased Cost of Compliance (ICC)
34 coverage under NFIP flood insurance policies.
- 35 o. Upon the request of FEMA, complete and submit a report concerning participation in the
36 NFIP which may request information regarding the number of buildings in the SFHA and
37 number of permits issued for development in the SFHA.
- 38 p. Notify the Federal Emergency Management Agency when the corporate boundaries of St.
39 Mary's County have been modified and:
- 40 (1) Provide a map that clearly delineates the new corporate boundaries or the new
41 area for which the authority to regulate pursuant to these regulations has either
42 been assumed or relinquished through annexation; and
- 43 (2) If the FIRM for any annexed area includes special flood hazard areas that have
44 flood zones that have regulatory requirements that are not set forth in these
45 regulations, prepare amendments to these regulations to adopt the FIRM and
46 appropriate requirements, and submit the amendments to the governing body for
47 adoption; such adoption shall take place within six months of the date of
48 annexation and a copy of the amended regulations shall be provided to MDE
49 (NFIP State Coordinator) and FEMA.

1 3. Use and Interpretation of FIRMs

2 The Floodplain Administrator shall make interpretations, where needed, as to the exact location of
3 special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall
4 apply to the use and interpretation of FIRMs and data:

5 a. Where field surveyed topography indicates that ground elevations:

6 (1) Are below the base flood elevation, even in areas not delineated as a special
7 flood hazard area on a FIRM, the area shall be considered as special flood
8 hazard area and subject to the requirements of these regulations;

9 (2) Are above the base flood elevation, the area shall be regulated as special flood
10 hazard area unless the applicant obtains a Letter of Map Change that removes
11 the area from the special flood hazard area.

12 b. In FEMA-identified special flood hazard areas where base flood elevation and floodway
13 data have not been identified and in areas where FEMA has not identified special flood
14 hazard areas, any other flood hazard data available from a Federal, State, or other source
15 shall be reviewed and reasonably used.

16 c. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall
17 take precedence over base flood elevations and floodway boundaries by any other sources
18 if such sources show reduced floodway widths and/or lower base flood elevations.

19 d. Other sources of data shall be reasonably used if such sources show increased base flood
20 elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

21 e. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study
22 has been provided by FEMA:

23 (1) Upon the issuance of a Letter of Final Determination by FEMA, the
24 preliminary flood hazard data shall be used and shall replace the flood
25 hazard data previously provided from FEMA for the purposes of
26 administering these regulations.

27 (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use
28 of preliminary flood hazard data shall be deemed the best available data
29 pursuant to Section 76.1.5 and used where no base flood elevations and/or
30 floodway areas are provided on the effective FIRM.

31 (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of
32 preliminary flood hazard data is permitted where the preliminary base flood
33 elevations, floodplain or floodway boundaries exceed the base flood
34 elevations and/or designated floodway widths in existing flood hazard data
35 provided by FEMA. Such preliminary data may be subject to change and/or
36 appeal to FEMA.

37 4. Permits Required and Expiration

38 a. It shall be unlawful for any person to begin any development or construction which is
39 wholly within, partially within, or in contact with any flood hazard area established in
40 Section 76.1.5, including but not limited to: filling; grading; construction of new
41 structures; the substantial improvement of buildings or structures, including repair of
42 substantial damage; placement or replacement of manufactured homes, including
43 substantial improvement or repair of substantial damage of manufactured homes; erecting
44 or installing a temporary structure, or alteration of a watercourse, until a permit is
45 obtained from St. Mary's County. No such permit shall be issued until the requirements
46 of these regulations have been met.

47 b. In addition to the permits required in paragraph (A), applicants for permits in nontidal
48 waters of the State are advised to contact MDE. Unless waived by MDE, pursuant to
49 Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and

- 1 Floodplains, MDE regulates the “100-year frequency floodplain of free-flowing waters,”
2 also referred to as nontidal waters of the State. To determine the 100-year frequency
3 floodplain, hydrologic calculations are based on the ultimate development of the
4 watershed, assuming existing zoning. The resulting flood hazard areas delineated using
5 the results of such calculations may be different than the special flood hazard areas
6 established in Section 76.1.5 of these regulations. Issuance of permit by the State does
7 not authorize any person to begin any development or construction. A permit from St.
8 Mary’s County is required in addition to any State permit. A County permit may include
9 requirements in addition to those in the State permit.
- 10 c. A permit is valid provided it is issued by the actual start of work. This permit shall
11 become invalid if the authorized use or construction for which the permit was issued is
12 not commenced within 180 days of the date of permit issuance. Prior to the expiration of
13 the permit, the Floodplain Administrator may grant, in writing, one or more extensions of
14 time, for additional periods not exceeding 90 days each, upon good cause shown and
15 provided there has been no amendment or revision to the basis for establishing special
16 flood hazard areas and BFEs set forth in Section 76.1.5.
- 17 5. Application Required and Information Necessary for Application
18 Application for a permit within the special flood hazard area shall be made by the owner of the
19 property or the owner’s authorized agent (herein referred to as the applicant) prior to the start of
20 any work. The application shall be on a form furnished for that purpose.
- 21 a. Floodplain applications shall at a minimum include:
- 22 (1) Site plans drawn to scale showing the nature, location, dimensions, and
23 existing and proposed topography of the area in question, and the location
24 of existing and proposed structures, excavation, filling, storage of materials,
25 drainage facilities, and other proposed activities.
- 26 (2) Elevation of the existing natural ground where buildings or structures are
27 proposed, referenced to the datum on the FIRM.
- 28 (3) Delineation of special flood hazard areas, designated floodway boundaries,
29 flood zones, base flood elevations, and flood protection setbacks. Base
30 flood elevations shall be used to delineate the boundary of flood hazard
31 areas and such delineations shall prevail over the boundary of SFHAs
32 shown on FIRMs.
- 33 (4) Where floodways are not delineated or base flood elevations are not shown
34 on the FIRMs, the Floodplain Administrator has the authority to require the
35 applicant to use information provided by the Floodplain Administrator,
36 information that is available from Federal, State, or other sources, or to
37 determine such information using accepted engineering practices or
38 methods approved by the Floodplain Administrator.
- 39 (5) Determination of the base flood elevations, for development proposals and
40 subdivision proposals, each with at least 5 lots or at least 5 acres, whichever
41 is the lesser, in special flood hazard areas where base flood elevations are
42 not shown on the FIRM; if hydrologic and hydraulic engineering analyses
43 are submitted, such analyses shall be performed in accordance with the
44 requirements and specifications of MDE and FEMA.
- 45 (6) Hydrologic and hydraulic engineering analyses for proposals in special
46 flood hazard areas where FEMA has provided base flood elevations but has
47 not delineated a floodway; such analyses shall demonstrate that the
48 cumulative effect of proposed development, when combined with all other
49 existing and anticipated development will not increase the water surface
50 elevation of the base flood by more than one foot, or a lower increase if
51 required by MDE.

- 1 (7) For encroachments in floodways, an evaluation of alternatives to such
2 encroachments, including different uses of the site or portion of the site
3 within the floodway, and minimization of such encroachment.
- 4 (8) If fill is proposed to be placed for a purpose other than to elevate structures,
5 the applicant shall indicate the intended purpose for the fill.
- 6 (9) For proposed buildings and structures, including substantial improvement
7 and any repair of a substantially damaged structure, and placement and
8 replacement of manufactured homes, including substantial improvement
9 and repair of substantial damage:
- 10 (a) The proposed elevation of the lowest floor, including basement,
11 referenced to the datum on the FIRM and a signed Agreement to
12 Submit an Elevation Certificate.
- 13 (b) The signed Declaration of Land Restriction (Non-Conversion
14 Agreement) that shall be recorded on the property deed prior to
15 issuance of the building permit if the application includes an enclosure
16 below the lowest floor or a crawl/underfloor space that is more than
17 four (4) feet in height.
- 18 (c) A written evaluation of alternative methods considered to elevate
19 structures and manufactured homes, if the location is in nontidal waters
20 of the State and fill is proposed to achieve the elevation required in
21 Section 76.5.4.a. or Section 76.5.5.a.
- 22 (10) For temporary structures and temporary storage, specification of the
23 duration of the temporary use.
- 24 (11) For proposed work on existing buildings, structure, and manufactured
25 homes, including any improvement, addition, repairs, alterations,
26 rehabilitation, or reconstruction, sufficient information to determine if the
27 work constitutes substantial improvement or repair of substantial damage,
28 including but not limited to:
- 29 (a) If the existing building or structure was constructed after February 19,
30 1987, evidence that the work will not alter any aspect of the building or
31 structure that was required for compliance with the floodplain
32 management requirements in effect at the time the building or structure
33 was permitted.
- 34 (b) If the proposed work is a horizontal addition, a description of the
35 addition and whether it will be independently supported or structurally
36 connected to the base building and the nature of all other modifications
37 to the base building, if any.
- 38 (c) Documentation of the market value of the building or structure before
39 the improvement or, if the work is repair of damage, before the damage
40 occurred.
- 41 (d) Documentation of the actual cash value of all proposed work, including
42 the actual cash value of all work necessary to repair and restore damage
43 to the before-damaged condition, regardless of the amount of work that
44 will be performed. The value of work performed by the owner or
45 volunteers shall be valued at market labor rates; the value of donated or
46 discounted materials shall be valued at market rates.
- 47 (12) Certifications and/or technical analyses prepared or conducted by a licensed
48 professional engineer or licensed architect, as appropriate, including:

- 1 (a) (The determination of the base flood elevations or hydrologic and
2 hydraulic engineering analyses prepared by a licensed professional
3 engineer that are required by the Floodplain Administrator or are
4 required by these regulations in: Section 76.4.2 for certain subdivisions
5 and development; Section 76.5.3.c and Section 76.5.3.d for
6 development in designated floodways; Section 76.5.3.f for
7 development in flood hazard areas with base flood elevations but no
8 designated floodways; and Section 76.5.3.h for deliberate alteration or
9 relocation of watercourses.
- 10 (b) The Floodproofing Certificate for nonresidential structures that are
11 floodproofed as required in Section 76.5.5.b.
- 12 (c) Certification that engineered flood openings are designed to meet the
13 minimum requirements of Section 76.5.4.c.3 to automatically equalize
14 hydrostatic flood forces.
- 15 (d) Certification that the proposed elevation, structural design,
16 specifications and plans, and the methods of construction to be used for
17 structures in coastal high hazard areas (V Zones) and Coastal A Zones,
18 are in accordance with accepted standards of practice and meet the
19 requirements of Section 76.5.5.b.3.
- 20 (13) For nonresidential structures that are proposed with floodproofing, an
21 operations and maintenance plan as specified in Section 76.5.5.b.3.
- 22 (14) Such other material and information as may be requested by the Floodplain
23 Administrator and necessary to determine conformance with these
24 regulations.
- 25 b. New Technical Data
- 26 (1) The applicant may seek a Letter of Map Change by submitting new
27 technical data to FEMA, such as base maps, topography, and engineering
28 analyses to support revision of floodplain and floodway boundaries and/or
29 base flood elevations. Such submissions shall be prepared in a format
30 acceptable to FEMA and any fees shall be the sole responsibility of the
31 applicant. A copy of the submittal shall be attached to the application for a
32 permit. A County permit requested on the basis of receiving a LOMC shall
33 not be issued for development prior to receipt by the Floodplain
34 Administrator of the approved Letter of Map Change issued by FEMA.
- 35 (2) If the applicant submits new technical data to support any change in
36 floodplain and designated floodway boundaries and/or base flood elevations
37 but has not sought a Letter of Map Change from FEMA, the applicant shall
38 submit such data to FEMA as soon as practicable, but not later than six
39 months after the date such information becomes available. Such
40 submissions shall be prepared in a format acceptable to FEMA and any fees
41 shall be the sole responsibility of the applicant.
- 42 6. Review of Application
43 The Floodplain Administrator shall:
- 44 a. Review applications for development in special flood hazard areas to determine the
45 completeness of information submitted. The applicant shall be notified of
46 incompleteness or additional information that is required to support the application.
- 47 b. Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and
48 other State and Federal authorities may be required.
- 49 c. Review all permit applications to assure that all necessary permits have been received
50 from the Federal, State or local governmental agencies from which prior approval is

1 required. The applicant shall be responsible for obtaining such permits, including permits
2 issued by:

- 3 (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and
4 Harbors Act and Section 404 of the Clean Water Act;
- 5 (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of
6 the Clean Water Act;
- 7 (3) MDE for construction on nontidal waters of the State pursuant to COMAR
8 26.17.04; and
- 9 (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands).

10 d. Review applications for compliance with these regulations after all information required
11 in Section 76.3.5 of these regulations or identified and required by the Floodplain
12 Administrator has been received.

13 **7. Inspections**

14 The Floodplain Administrator shall make periodic inspections of development permitted in special
15 flood hazard areas, at appropriate times throughout the period of construction in order to monitor
16 compliance. Such inspections may include:

- 17 a. Stake-out inspection, to determine location on the site relative to the flood hazard area
18 and designated floodway.
- 19 b. Foundation inspection, upon placement of the lowest floor and prior to further vertical
20 construction, to collect information or certification of the elevation of the lowest floor. A
21 "Building under Construction" Elevation Certificate shall be submitted for review prior
22 to scheduling the foundation inspection.
- 23 c. Inspection of enclosures below the lowest floor, including crawl/underfloor spaces, to
24 determine compliance with applicable provisions.
- 25 d. Utility inspection, upon installation of specified equipment and appliances, to determine
26 appropriate location with respect to the base flood elevation.
- 27 e. Final inspection prior to issuance of the Certificate of Occupancy.

28 **8. Submissions Required Prior to Final Inspection**

29 Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as
30 required in Section 76.3.5.a(9), the permittee shall have an Elevation Certificate prepared and
31 submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated
32 structures and manufactured homes, including new structures and manufactured homes,
33 substantially-improved structures and manufactured homes, and additions to structures and
34 manufactured homes.

35 **76.4. Requirements in All Flood Hazard Areas**

36 **1. Application of Requirements**

37 The general requirements of this section apply to all development proposed within all special
38 flood hazard areas identified in Section 76.1.5.

39 **2. Subdivision Proposals and Development Proposals**

40 To achieve long term flood damage avoidance and protection of natural and beneficial floodplain
41 functions, creation of any new flood-prone building sites is prohibited in any subdivision governed
42 by this Ordinance regardless of size, number of lots or location.

- 43 a. In all flood zones:

- 1 (1) Subdivision proposals and development proposals shall be consistent with the
2 need to minimize flood damage and are subject to all applicable standards
3 in these regulations.
- 4 (1) Location of the buildable areas on new subdivision lots within the
5 special flood hazard areas is prohibited. The building restriction line
6 for new subdivision lots shall be established at the more restrictive of
7 25' from the site contour equal to the BFE or the flood protection
8 setback.
- 9 (2) Within proposed subdivisions, the mapped special flood hazard area
10 and the natural vegetation waterward of the site contour equal to the
11 BFE shall be preserved as natural buffer areas or open space by deed
12 restriction, or similar instrument.
- 13 (3) Any portion of a platted lot that includes land areas that are below the
14 base flood elevation shall be deed restricted, or otherwise protected to
15 preserve it as open space.
- 16 (2) Subdivision proposals and development proposals shall have utilities and
17 facilities such as sewer, gas, electrical, and water systems located and
18 constructed to minimize flood damage.
- 19 (3) Subdivision proposals and development proposals shall have adequate drainage
20 paths provided to reduce exposure to flood hazards and to guide floodwaters
21 around and away from proposed structures.
- 22 (4) Subdivision proposals and development proposals containing at least 5 lots or at
23 least 5 acres, whichever is the lesser, that are wholly or partially in flood
24 hazard areas where base flood elevation data are not provided by the
25 Floodplain Administrator or available from other sources, shall be
26 supported by determinations of base flood elevations as required in Section
27 **Error! Reference source not found.** of these regulations.
- 28 (5) Subdivision access roads shall have the driving surface at or above the base
29 flood elevation.
- 30 (6) In special flood hazard areas of nontidal waters of the State:
- 31 (a) Subdivision proposals shall be laid out such that proposed building
32 pads are located outside of the special flood hazard area and any
33 portion of platted lots that include land areas that are below the base
34 flood elevation shall be used for other purposes, deed restricted, or
35 otherwise protected to preserve it as open space.
- 36 (b) Subdivision access roads shall have the driving surface at or above the
37 base flood elevation.
- 38 3. Protection of Water Supply and Sanitary Sewage Systems
- 39 a. New and replacement water supply systems shall be designed to minimize or eliminate
40 infiltration of floodwaters into the systems.
- 41 b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate
42 infiltration of floodwaters into systems and discharges from systems into floodwaters.
- 43 c. On-site waste disposal systems shall be located to avoid impairment to or contamination
44 from them during conditions of flooding.
- 45 4. Buildings and Structures
- 46 a. New buildings and structures (including the placement and replacement of manufactured
47 homes) and substantial improvement of existing structures (including manufactured
48 homes) that are located, in whole or in part, in any special flood hazard area shall:

- 1 (1) Be designed (or modified) and constructed to safely support flood loads. The
2 construction shall provide a complete load path capable of transferring all
3 loads from their point of origin through the load-resisting elements to the
4 foundation. Structures shall be designed, connected and anchored to resist
5 flotation, collapse or permanent lateral movement due to structural loads
6 and stresses, including hydrodynamic and hydrostatic loads and the effects
7 of buoyancy, from flooding equal to the flood protection elevation or the
8 elevation required by these regulations or the building code, whichever is
9 higher.
- 10 (2) Be constructed by methods and practices that minimize flood damage.
- 11 (3) Use flood damage-resistant materials below the elevation of the lowest floor
12 required in Section 76.5.4.a or Section 76.5.5.a (for A Zones) or Section
13 76.6.3.b (for V Zones and Coastal A Zones).
- 14 (4) Have electrical systems, equipment and components, and mechanical, heating,
15 ventilating, air conditioning, and plumbing appliances, plumbing fixtures,
16 duct systems, and other service equipment located at or above the elevation
17 of the lowest floor required in Section 76.5.4.a or Section 76.5.5.a (A
18 Zones) or Section 76.6.3.b (V Zones and Coastal A Zones). Electrical
19 wiring systems are permitted to be located below elevation of the lowest
20 floor provided they conform to the provisions of the electrical part of the
21 building code for wet locations. If replaced as part of a substantial
22 improvement, electrical systems, equipment and components, and heating,
23 ventilation, air conditioning, and plumbing appliances, plumbing fixtures,
24 duct systems, and other service equipment shall meet the requirements of
25 this section.
- 26 (5) As an alternative to paragraph (4) above, electrical systems, equipment and
27 components, and heating, ventilating, air conditioning, and plumbing
28 appliances, plumbing fixtures, duct systems, and other service equipment
29 are permitted to be located below the elevation of the lowest floor provided
30 they are designed and installed to prevent water from entering or
31 accumulating within the components and to resist hydrostatic and
32 hydrodynamic loads and stresses, including the effects of buoyancy, during
33 the occurrence of flooding to that elevation.
- 34 (6) Have the electric panelboard elevated at least three (3) feet above the BFE.
- 35 (7) If located in flood hazard areas (A Zones) that are not identified as Coastal A
36 Zones or coastal high hazard areas (V Zones), comply with the specific
37 requirements of Section 76.5.
- 38 (8) If located in Coastal A Zone, comply with the specific requirements of:
 - 39 (a) Section 76.6 (new construction and placement of new manufactured
40 homes); or
 - 41 (b) Section 76.5 (substantial improvements (including repair of substantial
42 damage) and replacement manufactured homes).
 - 43 (c) If located in coastal high hazard areas (V Zones), comply with the
44 specific requirements of Section 76.6.
- 45 b. Comply with the requirements of the most restrictive designation if located on a site that
46 has more than one flood zone designation (Zone X (shaded), A Zone, designated
47 floodway, Coastal A Zone, V Zone).
- 48 5. Placement of Fill
 - 49 a. Disposal of fill, including but not limited to earthen soils, rock, rubble, construction
50 debris, woody debris, and trash, shall not be permitted in special flood hazard areas.

- 1 b. Fill shall not be placed in Coastal A Zones or coastal high hazard areas (V Zones) except
2 as provided in Section 76.6.2.
- 3 c. Fill proposed to be placed to elevate structures in flood hazard areas (A Zones) that are
4 not Coastal A Zones or coastal high hazard areas (V Zones) shall comply with the
5 floodways requirements in Section 76.5.3.c, Section 76.5.3.d, Section **Error! Reference**
6 **source not found.**, and Section **Error! Reference source not found.** and the limitations
7 of Section 76.5.3.e.
- 8 6. Historic Structures
- 9 Repair, alteration, addition, rehabilitation, or other improvement of historic structures shall be
10 subject to the requirements of these regulations if the proposed work is determined to be a
11 substantial improvement, unless a determination is made that the proposed work will preclude the
12 structure's continued designation as a historic structure. The Floodplain Administrator may
13 require documentation of a structure's continued eligibility and designation as a historic structure.
- 14 7. Manufactured Homes
- 15 a. New manufactured homes shall not be placed or installed in floodways or coastal high
16 hazard areas (V Zones).
- 17 b. In Coastal A zones, new and substantially improved manufactured homes shall comply
18 with V-zone construction criteria for foundation design and elevation.
- 19 c. For the purpose of these regulations, the lowest floor of a manufactured home is the
20 bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- 21 d. New manufactured homes located outside of floodways and coastal high hazard areas (V
22 Zones), replacement manufactured homes in any flood hazard areas, and substantial
23 improvement (including repair of substantial damage) of existing manufactured homes in
24 all flood hazard area, shall:
- 25 (1) Be elevated on a permanent, reinforced foundation in accordance with Section
26 76.5 or Section 76.6, as applicable to the flood zone;
- 27 (2) Be installed in accordance with the anchor and tie-down requirements of the
28 building code or the manufacturer's written installation instructions and
29 specifications; and
- 30 (3) Have enclosures below the lowest floor of the elevated manufactured home, if
31 any, including enclosures that are surrounded by rigid skirting or other
32 material that is attached to the frame or foundation, that comply with the
33 requirements of Section 76.5 or Section 76.6, as applicable to the flood
34 zone.
- 35 8. Recreational Vehicles
- 36 Recreational vehicles shall:
- 37 a. Meet the requirements for *manufactured homes* in Section 76.47; or
- 38 b. Be fully licensed and ready for highway use; or
- 39 c. Be on a site for less than 180 consecutive days.
- 40 9. Critical and Essential Facilities
- 41 Critical and essential facilities shall not be located in coastal high hazard areas (V Zones), Coastal
42 A Zones or floodways. If located in flood hazard areas other than coastal high hazard areas,
43 Coastal A Zones and floodways, be elevated to the higher of:
- 44 a. The elevation required by these regulations plus one (1) foot,
- 45 b. The elevation required by the building code, or

- 1 c. The elevation of the 0.2 percent chance (500-year) flood.
- 2 10. Temporary Structures and Temporary Storage
- 3 a. In addition to the application requirements of Section 76.3.5, applications for the
4 placement or erection of temporary structures and the temporary storage of any goods,
5 materials, and equipment, shall specify the duration of the temporary use. Temporary
6 structures and temporary storage in floodways shall meet the limitations of Section
7 76.5.3.c and Section 76.5.3.d of these regulations. In addition:
- 8 b. Temporary structures shall:
- 9 (1) Be designed and constructed to prevent flotation, collapse or lateral movement
10 resulting from hydrodynamic loads and hydrostatic loads during conditions
11 of the base flood;
- 12 (2) Have electric service installed in compliance with the electric code; and
- 13 (3) Comply with all other requirements of the applicable State and local permit
14 authorities.
- 15 c. Temporary storage shall not include hazardous materials.
- 16 11. Gas or Liquid Storage Tanks
- 17 a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse
18 or lateral movement resulting from hydrostatic loads, including the effects of buoyancy,
19 during conditions of the base flood.
- 20 b. Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and
21 elevated to or above the base flood elevation, or shall be anchored or otherwise designed
22 and constructed to prevent flotation, collapse, or lateral movement resulting from
23 hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions
24 of the base flood.
- 25 c. In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
- 26 (1) One (1) foot above the flood protection elevation or fitted with covers designed
27 to prevent the inflow of floodwater or outflow of the contents of the tanks
28 during conditions of the base flood; and
- 29 (2) Anchored to prevent lateral movement resulting from hydrodynamic and
30 hydrostatic loads, including the effects of buoyancy, during conditions of
31 the base flood.
- 32 12. Functionally Dependent Uses
- 33 Applications for functionally dependent uses that do not conform to the requirements of these
34 regulations are prohibited. If approved, functionally dependent uses shall be protected by methods
35 that minimize flood damage during the base flood, including measures to allow floodwaters to
36 enter and exit, use of flood damage-resistant materials, and elevation of electric service and
37 equipment to the extent practical given the use of the building.
- 38 **76.5. Requirements in Flood Hazard Areas (A Zones) that are Not Coastal High Hazard Areas (V**
39 **Zones) or Coastal A Zones**
- 40 1. General Requirements
- 41 In addition to the general requirements of Section 76.4, the requirements of this section shall:
- 42 a. Apply in flood hazard areas that are not identified as coastal high hazard areas (V Zones)
43 and Coastal A Zones. These flood hazard areas, referred to collectively as “A Zones,”
44 include special flood hazard areas along nontidal waters of the State, landward of coastal
45 high hazard areas (V Zones), and landward of Coastal A Zones (if delineated).

- 1 b. Apply to all development, new construction, substantial improvements (including repair
2 of substantial damage), and placement, replacement, and substantial improvement
3 (including repair of substantial damage) of manufactured homes.
- 4 2. Flood Protection Setbacks
5 Within areas defined by flood protection setbacks along nontidal waters of the State:
- 6 a. No new buildings, structures, or other development shall be permitted unless the
7 applicant demonstrates that the site cannot be developed without such encroachment into
8 the flood protection setback and the encroachment is the minimum necessary after
9 consideration of varying other siting standards such as side, front, and rear setbacks from
10 lot lines.
- 11 b. Disturbance of natural vegetation shall be minimized and any disturbance allowed shall
12 be stabilized with vegetative cover.
- 13 c. Public works and temporary construction may be permitted.
- 14 3. Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State
- 15 a. New structures and critical and essential facilities shall not be permitted in floodways.
- 16 b. Replacement structures shall be located to minimize encroachment into the floodway and
17 shall not be permitted in a floodway when alternative locations exist outside the
18 floodway.
- 19 c. Development in Designated Floodways:
- 20 (1) For proposed development that will encroach into a designated floodway,
21 Section 76.3.5.a.7 requires the applicant to submit an evaluation of
22 alternatives to such encroachment, including different uses of the site or the
23 portion of the site within the floodway, and minimization of such
24 encroachment. This requirement does not apply to fences that do not block
25 the flow of floodwaters or trap debris.
- 26 (2) Proposed development in a designated floodway may be permitted only if:
- 27 (a) The applicant has been issued a permit by MDE; and
- 28 (b) The applicant has developed hydrologic and hydraulic engineering
29 analyses and technical data prepared by a licensed professional
30 engineer reflecting such changes, and the analyses, which shall be
31 submitted to the Floodplain Administrator, demonstrate that the
32 proposed activity will not result in any increase in the base flood
33 elevation; or
- 34 (c) If the analyses demonstrate that the proposed activities will result in an
35 increase in the base flood elevation, the applicant has obtained a
36 Conditional Letter of Map Revision and a Letter of Map Revision from
37 FEMA upon completion of the project. Submittal requirements and
38 fees shall be the responsibility of the applicant.
- 39 d. Development that Includes the Placement of Fill in Nontidal Waters of the State:
40 For proposed development that includes the placement of fill in nontidal waters of the
41 State, other than development that is subject to paragraph e., a hydraulically-equivalent
42 volume of excavation is required. Such excavations shall be designed to drain freely.
- 43 e. Development in Areas with Base Flood Elevations but No Designated Floodways
44 For development in special flood hazard areas of nontidal waters of the State with base
45 flood elevations but no designated floodways:

- 1 (1) The applicant shall develop hydrologic and hydraulic engineering analyses and
2 technical data reflecting the proposed activity and shall submit such
3 technical data to the Floodplain Administrator as required in Section
4 76.3.5.a (6). The analyses shall be prepared by a licensed professional
5 engineer in a format required by FEMA for a Conditional Letter of Map
6 Revision and a Letter of Map Revision upon completion of the project.
7 Submittal requirements and fees shall be the responsibility of the applicant.
- 8 (2) The proposed development may be permitted if the applicant has received a
9 permit by MDE and if the analyses demonstrate that the cumulative effect
10 of the proposed development, when combined with all other existing and
11 potential flood hazard area encroachments will not increase the base flood
12 elevation more than 1.0 foot at any point.
- 13 f. Construction of roads, bridges, culverts, dams, and in-stream ponds in nontidal waters of
14 the State shall not be approved unless they comply with this section and the applicant has
15 received a permit from MDE.
- 16 g. For any proposed development that involves alteration of a watercourse not subject to
17 paragraph e., unless waived by MDE, the applicant shall develop hydrologic and
18 hydraulic engineering analyses and technical data reflecting such changes, including the
19 floodway analysis required in Section 76.3.5.a, and submit such technical data to the
20 Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed
21 professional engineer in a format required by MDE and by FEMA for a Conditional
22 Letter of Map Revision or Letter of Map Revision. Submittal requirements and fees shall
23 be the responsibility of the applicant.
- 24 (1) Alteration of a watercourse may be permitted only upon submission, by the
25 applicant, of the following:
- 26 (2) A description of the extent to which the watercourse will be altered or relocated;
- 27 (3) A certification by a licensed professional engineer that the flood-carrying
28 capacity of the watercourse will not be diminished;
- 29 (4) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and
30 MDE have been notified of the proposal, and evidence that such
31 notifications have been submitted to FEMA; and
- 32 (5) Evidence that the applicant shall be responsible for providing the necessary
33 maintenance for the altered or relocated portion of the watercourse so that
34 the flood carrying capacity will not be diminished. The Floodplain
35 Administrator may require the applicant to enter into an agreement with St.
36 Mary's County specifying the maintenance responsibilities; if an agreement
37 is required, the permit shall be conditioned to require that the agreement be
38 recorded on the deed of the property which shall be binding on future
39 owners.
- 40 4. Residential Structures and Residential Portions of Mixed Use Structures
41 New residential structures and residential portions of mixed use structures, and substantial
42 improvement (including repair of substantial damage) of existing residential structures and
43 residential portions of mixed use structures shall comply with the applicable requirements of
44 Section 76.4 and this section. See Section 76.5.6 for requirements for horizontal additions.
- 45 a. Elevation Requirements
- 46 (1) Lowest floors shall be elevated to or above the flood protection elevation.
- 47 (2) In areas of shallow flooding (Zone AO), the lowest floor (including basement)
48 shall be elevated at least as high above the highest adjacent grade as the
49 depth number specified in feet on the FIRM plus two (2) feet, or at least
50 four (4) feet if a depth number is not specified.

- 1 (3) Enclosures below the lowest floor shall meet the requirements of paragraph c
2 below.
- 3 b. Limitations on Use of Fill to Elevate Structures
- 4 (1) Unless otherwise restricted by these regulations, especially by the limitations in
5 Section **Error! Reference source not found.**c, Section 76.5.3.c, Section
6 76.5.3.d, and Section 76.5.3.e, fill placed for the purpose of raising the
7 ground level to support a building or structure shall: Consist of earthen soil
8 or rock materials only.
- 9 (2) Extend laterally from the building footprint to provide for adequate access as a
10 function of use; the Floodplain Administrator may seek advice from the
11 State Fire Marshal's Office and/or the local fire services agency;
- 12 (3) Comply with the requirements of the building code and be placed and
13 compacted to provide for stability under conditions of rising and falling
14 floodwaters and resistance to erosion, scour, and settling;
- 15 (4) Be sloped no steeper than one (1) vertical to two (2) horizontal, unless approved
16 by the Floodplain Administrator;
- 17 (5) Be protected from erosion associated with expected velocities during the
18 occurrence of the base flood; unless approved by the Floodplain
19 Administrator, fill slopes shall be protected by vegetation if the expected
20 velocity is less than five feet per second, and by other means if the expected
21 velocity is five feet per second or more; and
- 22 (6) Be designed with provisions for adequate drainage and no adverse effect on
23 adjacent properties.
- 24 c. Enclosures below the Lowest Floor
- 25 (1) Enclosures below the lowest floor shall be used solely for parking of vehicles,
26 building access, crawl/underfloor spaces, or limited storage.
- 27 (2) Enclosures below the lowest floor shall be constructed using flood damage-
28 resistant materials.
- 29 (3) Enclosures below the lowest floor shall be provided with flood openings which
30 shall meet the following criteria:
- 31 (a) There shall be a minimum of two flood openings on different sides of
32 each enclosed area; if a building has more than one enclosure below the
33 lowest floor, each such enclosure shall have flood openings on exterior
34 walls.
- 35 (b) The total net area of all flood openings shall be at least 1 square inch
36 for each square foot of enclosed area (non-engineered flood openings),
37 or the flood openings shall be engineered flood openings that are
38 designed and certified by a licensed professional engineer to
39 automatically allow entry and exit of floodwaters; the certification
40 requirement may be satisfied by an individual certification or an
41 Evaluation Report issued by the ICC Evaluation Service, Inc.
- 42 (c) The bottom of each flood opening shall be 1 foot or less above the
43 higher of the interior floor or grade, or the exterior grade, immediately
44 below the opening.
- 45 (d) Any louvers, screens or other covers for the flood openings shall allow
46 the automatic flow of floodwaters into and out of the enclosed area.

- 1 (e) If installed in doors, flood openings that meet requirements of
2 paragraphs (a) through (d), are acceptable; however, doors without
3 installed flood openings do not meet the requirements of this section.
- 4 d. Attached Garages: A garage that is attached to or within the exterior walls of a residential
5 structure shall be elevated to the greatest extent possible, but may be permitted as an
6 exemption to the strict elevation requirement if:
- 7 (1) The garage complies with Section 76.5.4.d for enclosures below the lowest
8 floor,
9 (2) The maximum area is 600 square feet,
10 (3) All interior walls, ceilings, and floors below the flood protection elevation are
11 made of flood resistant materials, and
12 (4) No machinery or electric devices or appliances are installed or stored below the
13 flood protection elevation.
- 14 5. Nonresidential Structures and Nonresidential Portions of Mixed Use Structures
15 New nonresidential structures and nonresidential portions of mixed use structures, and substantial
16 improvement (including repair of substantial damage) of existing nonresidential structures and
17 nonresidential portions of mixed use structures shall comply with the applicable requirements of
18 Section 76.4 and the requirements of this section. See Section 76.5.6 for requirements for
19 horizontal additions.
- 20 a. Elevation Requirements
21 Elevated structures shall:
22 (1) Have the lowest floor (including basement) elevated to or above the flood
23 protection elevation; or
24 (2) In areas of shallow flooding (Zone AO), have the lowest floor (including
25 basement) elevated at least as high above the highest adjacent grade as the
26 depth number specified in feet on the FIRM plus two (2) feet, or at least
27 four (4) feet if a depth number is not specified; and
28 (3) Have enclosures below the lowest floor, if any, that comply with the
29 requirements of Section 76.5.4.c; or
30 (4) If proposed to be elevated on fill, meet the limitations on fill in Section 76.5.4.b.
- 31 b. Floodproofing Requirements
32 (1) Floodproofing of new nonresidential buildings:
33 (a) Is not allowed in nontidal waters of the State (COMAR
34 26.17.04.11(B)(7)).
35 (b) Is not allowed in Coastal A Zones.
36 (2) Floodproofing for substantial improvement of nonresidential buildings:
37 (a) Is allowed in nontidal waters of the State.
38 (b) Is allowed in Coastal A Zones.
39 (3) If floodproofing is proposed, structures shall:
40 (a) Be designed to be dry floodproofed such that the building or structure
41 is watertight with walls and floors substantially impermeable to the
42 passage of water to the level of the flood protection elevation plus 1.0
43 foot, or

- 1 (b) If located in an area of shallow flooding (Zone AO), be dry
2 floodproofed at least as high above the highest adjacent grade as the
3 depth number specified on the FIRM plus three (3) feet, or at least five
4 (5) feet if a depth number is not specified; and
- 5 (c) Have structural components capable of resisting hydrostatic and
6 hydrodynamic loads and effects of buoyancy;
- 7 (d) Have floodproofing measures that are designed taking into
8 consideration the nature of flood-related hazards; frequency, depth and
9 duration of flooding; rate of rise and fall of floodwater; soil
10 characteristics; flood-borne debris; at least 12 hours of flood warning
11 time from a credible source; and time necessary to implement any
12 measures that require human intervention;
- 13 (e) Have at least one door above the applicable flood elevation that allows
14 human ingress and egress during conditions of flooding;
- 15 (f) Have an operations and maintenance plan that is filed with local
16 emergency management officials and that specifies the
17 owner/occupant's responsibilities to monitor flood potential; the
18 location of any shields, doors, closures, tools, or other goods that are
19 required for implementation; maintenance of such goods; methods of
20 installation; and periodic inspection; and
- 21 (g) Be certified by a licensed professional engineer or licensed architect,
22 through execution of a Floodproofing Certificate that states that the
23 design and methods of construction meet the requirements of this
24 section. The Floodproofing Certificate shall be submitted with the
25 construction drawings as required in Section 76.3.5a(13).

26 6. Horizontal Additions

- 27 a. A horizontal addition proposed for a building or structure that was constructed after
28 February 19, 1987 shall comply with the applicable requirements of Section 76.4 and this
29 section.
- 30 b. In nontidal waters of the State that are subject to the regulatory authority of MDE, all
31 horizontal additions shall comply with the applicable requirements of Section 76.4 and
32 this section and:
 - 33 (1) If the addition is structurally connected to the base building, the requirements of
34 paragraph c. below.
 - 35 (2) If the addition has an independent foundation and is not structurally connected
36 to the base building and the common wall with the base building is
37 modified by no more than a doorway, the base building is not required to be
38 brought into compliance.
- 39 c. For horizontal additions that are structurally connected to the base building:
 - 40 (1) If the addition combined with other proposed repairs, alterations, or
41 modifications of the base building constitutes substantial improvement, the
42 base building and the addition shall comply with the applicable
43 requirements of Section 76.4 and this section.
 - 44 (2) If the addition constitutes substantial improvement, the base building and the
45 addition shall comply with all of the applicable requirements of Section
46 76.4 and this section.
- 47 d. For horizontal additions with independent foundations that are not structurally connected
48 to the base building and the common wall with the base building is modified by no more
49 than a doorway, the base building is not required to be brought into compliance.

1 e. A horizontal addition to a building or structure that is not substantial improvement, and is
2 not located in nontidal waters of the State, is not required to comply with this section.

3 **7. Accessory Structures**

4 a. Accessory structures, including detached garages, shall be limited to not more than 300
5 square feet in total floor area.

6 b. Accessory structures shall comply with the elevation requirements and other
7 requirements of Section 76.4, the floodproofing requirements of Section 76.5.5.b, or
8 shall:

9 (1) Be useable only for parking of vehicles or limited storage;

10 (2) Be constructed with flood damage-resistant materials below the base flood
11 elevation;

12 (3) Be constructed and placed to offer the minimum resistance to the flow of
13 floodwaters;

14 (4) Be anchored to prevent flotation;

15 (5) Have electrical service and mechanical equipment elevated to or above the base
16 flood elevation; and

17 (6) Have flood openings that meet the requirements of Section 76.5.4.c.

18 c. A conditional permit, for up to a total size of 600 square feet may be issued at the
19 discretion of the Floodplain Administrator when the 300 square foot exemption is
20 exceeded for accessory structures. In order to qualify, the structure's use must be
21 incidental to the primary structure, and it can only be used for limited storage and parking
22 of vehicles. This conditional permit is subject to the completion of a Declaration of Land
23 Restriction (Non-Conversion Agreement).

24 d. A permit issued for any accessory structure that does not comply with the elevation
25 requirements and other requirements of Section 76.5.4, or the floodproofing requirements
26 of Section 76.5.5.b shall require:

27 (1) The recording of a Declaration of Land Restriction (Non-Conversion
28 Agreement) on a form approved by the Floodplain Administrator that states
29 that the use of the accessory structure may not change from that permitted
30 and that the permitted structure may not be used for human habitation
31 without first complying with the requirements of this Ordinance.

32 (2) Have a statement of the greater flood risk and potential for higher flood
33 insurance premiums printed on the permit.

34 **76.6. Requirements in Coastal High Hazard Areas (V Zones) and Coastal A Zones**

35 **1. General Requirements**

36 In addition to the general requirements of Section 76.4, the requirements of this section shall:

37 a. Apply in flood hazard areas that are identified as coastal high hazard areas (V Zones) and
38 Coastal A Zones.

39 b. Apply to all development, new construction, substantial improvements (including repair
40 of substantial damage), and placement, replacement, and substantial improvement
41 (including repair of substantial damage) of manufactured homes in the V Zone.

42 c. In Coastal A Zones, apply to new and replacement structures. The requirements of
43 Section 76.5 shall apply to substantial improvements (including any repair of a
44 substantially damaged structure), and substantial improvement of manufactured homes
45 (including any repair of substantial damage).

- 1 2. Location and Site Preparation
- 2 a. The placement of structural fill for the purpose of elevating buildings is prohibited.
- 3 b. Buildings shall be located landward of the reach of mean high tide.
- 4 c. Minor grading, and the placement of minor quantities of fill, shall be permitted for
- 5 landscaping and for drainage purposes under and around buildings and for support of
- 6 parking slabs, pool decks, patios and walkways.
- 7 d. Site preparations shall not alter sand dunes unless an engineering analysis demonstrates
- 8 that the potential for flood damage is not increased.
- 9 3. Residential and Nonresidential Structures
- 10 New structures and substantial improvement (including repair of substantial damage) of existing
- 11 structures shall comply with the applicable requirements of Section 76.4 and the requirements of
- 12 this section.
- 13 a. Foundations
- 14 (1) Structures shall be supported on pilings or columns and shall be adequately
- 15 anchored to such pilings or columns. Pilings shall have adequate soil
- 16 penetrations to resist the combined wave and wind loads (lateral and uplift).
- 17 Water loading values used shall be those associated with the base flood.
- 18 Wind loading values shall be those required by applicable building codes.
- 19 Pile embedment shall include consideration of decreased resistance capacity
- 20 caused by scour of soil strata surrounding the piling.
- 21 (2) Slabs, pools, pool decks and walkways shall be located and constructed to be
- 22 structurally independent of structures and their foundations to prevent
- 23 transfer of flood loads to the structures during conditions of flooding, scour,
- 24 or erosion from wave-velocity flow conditions, and shall be designed to
- 25 minimize debris impacts to adjacent properties and public infrastructure.
- 26 b. Elevation Requirements
- 27 (1) The bottom of the lowest horizontal structural member that supports the lowest
- 28 floor shall be located at or above the flood protection elevation.
- 29 (2) Basement floors that are below grade on all sides are prohibited.
- 30 (3) The space below an elevated building shall either be free-of-obstruction or, if
- 31 enclosed by walls, shall meet the requirements of paragraph d, below.
- 32 c. Certification of Design
- 33 As required in Section 76.3.5.a.(13), the applicant shall include in the application a
- 34 certification prepared by a licensed professional engineer or a licensed architect that the
- 35 design and methods of construction to be used meet the requirements of paragraph a, and
- 36 paragraph b, above, paragraph d below, and the building code.
- 37 d. Enclosures Below the Lowest Floor
- 38 (1) Enclosures below the lowest floor shall be used solely for parking of vehicles,
- 39 building access or limited storage. Installation of utility stub outs is
- 40 prohibited within enclosures below the lowest floor.
- 41 (2) Enclosures below the lowest floor shall be less than 299 square feet in area
- 42 (exterior measurements).
- 43 (3) Walls and partitions are permitted below the elevated floor, provided that such
- 44 walls and partitions shall be designed to break away under flood loads and
- 45 shall not be part of the structural support of the building or structure

- 1 (4) Electrical, mechanical, and plumbing system components shall not be mounted
2 on, attached to, or penetrate through walls that are designed to break away
3 under flood loads.
- 4 (5) Walls intended to break away under flood loads shall be constructed with insect
5 screening or open lattice, or shall be designed to break away or collapse
6 without causing collapse, displacement or other structural damage to the
7 elevated portion of the building or supporting foundation system. Such
8 walls, framing and connections shall have a design safe loading resistance
9 of not less than 10 pounds per square foot and no more than 20 pounds per
10 square foot; or
- 11 (6) Where wind loading values of the building code exceed 20 pounds per square
12 foot, the applicant shall submit a certification prepared and sealed by a
13 licensed professional engineer or licensed architect that:
- 14 (a) The walls and partitions below the lowest floor have been designed to
15 collapse from a water load less than that which would occur during the
16 base flood.
- 17 (b) The elevated portion of the building and supporting foundation system
18 have been designed to withstand the effects of wind and flood loads
19 acting simultaneously on all building components (structural and
20 nonstructural). Water loading values used shall be those associated with
21 the base flood; wind loading values used shall be those required by the
22 building code.
- 23 (c) In Coastal A Zones, in addition to the requirements of this section,
24 walls below the lowest floor shall have flood openings that meet the
25 requirements of Section.76.5.4.c.3.
- 26 4. Horizontal Additions to Structures
- 27 a. A horizontal addition proposed for a building or structure that was constructed after
28 February 19, 1987 shall comply with the applicable requirements of Section 76.4 and this
29 section.
- 30 b. For horizontal additions, whether structurally connected or not structurally connected, to
31 the base building:
- 32 (1) If the addition combined with other proposed repairs, alterations, or
33 modifications of the base building constitutes substantial improvement, the
34 base building and the addition shall comply with the applicable
35 requirements of Section 76.4 and this section.
- 36 (2) If the addition constitutes substantial improvement, the base building and the
37 addition shall comply with all of the applicable requirements of Section
38 76.4 and this section. The base building is required to comply otherwise it
39 is an obstruction that does not comply with the free-of-obstruction
40 requirement that applies to the elevated addition.
- 41 c. A horizontal addition to a building or structure that is not substantial improvement is not
42 required to comply with this section.
- 43 5. Accessory Structures
- 44 a. Accessory structures shall be limited to not more than 300 square feet in total floor area.
- 45 b. Accessory structures shall comply with the elevation requirements and other
46 requirements of Section 76.6.3 or, if not elevated, shall:
- 47 (1) Be useable only for parking of vehicles or limited storage;

- 1 (2) Be constructed with flood damage-resistant materials below the base flood
2 elevation;
- 3 (3) Be constructed and placed to offer the minimum resistance to the flow of
4 floodwaters;
- 5 (4) Be anchored to prevent flotation;
- 6 (5) Have electrical service and mechanical equipment elevated to or above the base
7 flood elevation; and
- 8 (6) If larger than 100 square feet in size, have walls that meet the requirements of
9 Section 76.6.3.d.3 through 6, as applicable for the flood zone; and have
10 flood openings that meet the requirements of Section 76.5.4.c.3.
- 11 c. A permit issued for any accessory structure that does not comply with the elevation and
12 other requirements shall require:
- 13 (1) The recording of a Declaration of Land Restriction (Non-Conversion
14 Agreement) on a form approved by the Floodplain Administrator that states
15 that the use of the accessory structure may not change from that permitted
16 and that the permitted structure may not be used for human habitation
17 without first complying with the requirements of this Ordinance.
- 18 (2) Have a statement of the greater flood risk and potential for higher flood
19 insurance premiums printed on the permit.
- 20 6. Other Structures and Development
- 21 a. Decks and Patios
- 22 In addition to the requirements of the building code or the residential code, decks and
23 patios shall be located, designed, and constructed in compliance with the following:
- 24 (1) A deck that is structurally attached to a building or structure shall have the
25 bottom of the lowest horizontal structural member at or above the flood
26 protection elevation and any supporting members that extend below the
27 design flood elevation shall comply with the foundation requirements that
28 apply to the building or structure, which shall be designed to accommodate
29 any increased loads resulting from the attached deck.
- 30 (2) (A deck or patio that is located below the flood protection elevation shall be
31 structurally independent from structures and their foundation systems, and
32 shall be designed and constructed either to remain intact and in place during
33 base flood conditions or to break apart into small pieces that will not cause
34 structural damage to adjacent elevated structures.
- 35 (3) A deck or patio that has a vertical thickness of more than 12 inches or that is
36 constructed with more than the minimum amount of fill that is necessary for
37 site drainage shall not be approved unless an analysis demonstrates no
38 harmful diversion of floodwaters or wave runup and wave reflection that
39 would increase damage to adjacent elevated structures.
- 40 (4) A deck or patio that has a vertical thickness of 12 inches or less and that is at
41 natural grade or on fill material that is similar to and compatible with local
42 soils and is the minimum amount necessary for site drainage may be
43 approved without requiring analysis of the impact on diversion of
44 floodwaters or wave runup and wave reflection.
- 45 b. Other Development
- 46 Other development activities shall be permitted only if located outside the footprint of,
47 and not structurally attached to, structures, and only if an analysis demonstrates no

1 harmful diversion of floodwaters or wave runoff and wave reflection onto adjacent
2 elevated structures. Other development includes but is not limited to:

- 3 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control
4 structures;
- 5 (2) Solid fences, privacy walls, and fences prone to trapping debris, unless designed
6 and constructed to fail under base flood conditions; and
- 7 (3) Mounded septic systems.

8 **76.7. Variances**

9 The Floodplain Administrator shall request comments on *variance* applications from MDE (NFIP
10 State Coordinator) and shall provide such comments to the Board of Appeals.

- 11 1. In considering *variance* applications, the Board of Appeals shall consider and make findings of
12 fact on all evaluations, all relevant factors, requirements specified in other sections of these
13 regulations, and the following factors:
 - 14 a. The danger that materials may be swept onto other lands to the injury of others.
 - 15 b. The danger to life and property due to flooding or erosion damage.
 - 16 c. The susceptibility of the proposed development and its contents (if applicable) to flood
17 damage and the effect of such damage on the individual owner.
 - 18 d. The importance of the services to the community provided by the proposed development.
 - 19 e. The availability of alternative locations for the proposed use which are not subject to, or
20 are subject to less, flooding or erosion damage.
 - 21 f. The necessity to the facility of a waterfront location, where applicable, or if the facility is
22 a functionally dependent use.
 - 23 g. The compatibility of the proposed use with existing and anticipated development.
 - 24 h. The relationship of the proposed use to the comprehensive plan and hazard mitigation
25 plan for that area.
 - 26 i. The safety of access to the property in times of flood for passenger vehicles and
27 emergency vehicles.
 - 28 j. The expected heights, velocity, duration, rate of rise, and sediment transport of the
29 floodwaters and the effects of wave action, if applicable, expected at the site.
 - 30 k. The costs of providing government services during and after flood conditions, including
31 maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and
32 water systems, and streets and bridges.
 - 33 l. The comments provided by MDE (NFIP State Coordinator).

34 2. Limitations for Granting Variances

35 The Board of Appeals shall make an affirmative decision on a *variance* request only upon:

- 36 a. A showing of good and sufficient cause. Good and sufficient cause deals solely with the
37 physical characteristics of the property and cannot be based on the character of the
38 improvement, the personal characteristics of the owner/inhabitants, or local provision that
39 regulate standards other than health and public safety.
- 40 b. A determination that failure to grant the variance would result in exceptional hardship
41 due to the physical characteristics of the property. Increased cost or inconvenience of
42 meeting the requirements of these regulations does not constitute an exceptional hardship
43 to the applicant.

- 1 c. A determination that the granting of a variance for development within any designated
2 floodway, or flood hazard area with base flood elevations but no designated floodway,
3 will not result in increased flood heights beyond that which is allowed in these
4 regulations.
- 5 d. A determination that the granting of a variance will not result in additional threats to
6 public safety; extraordinary public expense, nuisances, fraud or victimization of the
7 public, or conflict with existing local laws.
- 8 e. A determination that the building, structure or other development is protected by methods
9 to minimize flood damages.
- 10 f. A determination that the variance is the minimum necessary to afford relief, considering
11 the flood hazard.

12 76.8. Enforcement

13 1. Compliance Required

- 14 a. No building, structure or development shall hereafter be located, erected, constructed,
15 reconstructed, improved, repaired, extended, converted, enlarged or altered without full
16 compliance with these regulations and all other applicable regulations.
- 17 b. Failure to obtain a permit shall be a violation of these regulations and shall be subject to
18 penalties in accordance with Section 76.8.3
- 19 c. Permits issued on the basis of plans and applications approved by the Floodplain
20 Administrator authorize only the specific activities set forth in such approved plans and
21 applications or amendments thereto. Use, arrangement, or construction of such specific
22 activities that are contrary to that authorization shall be deemed a violation of these
23 regulations.

24 2. Notice of Violation and Stop Work Order

25 If the Floodplain Administrator determines that there has been a violation of any provision of these
26 regulations, the Floodplain Administrator shall give notice of such violation to the owner, the
27 owner's authorized agent, and the person responsible for such violation, and may issue a stop
28 work order. The notice of violation or stop work order shall be in writing and shall:

- 29 a. Include a list of violations, referring to the section or sections of these regulations that
30 have been violated;
- 31 b. Order remedial action which, if taken, will effect compliance with the provisions of these
32 regulations;
- 33 c. Specify a reasonable period of time to correct the violation;
- 34 d. Advise the recipients of the right to appeal; and
- 35 e. Be served in person; or
- 36 f. Be posted in a conspicuous place in or on the property and sent by registered or certified
37 mail to the last known mailing address, residence, or place of business of the recipients.

38 3. Violations and Penalties

39 Any person responsible for a violation shall comply with the notice of violation or stop work
40 order. Failure to comply shall be a fine not less than One Thousand Dollars (\$1,000.00) per day.
41 Each day a violation continues shall be considered a separate offense. Nothing herein contained
42 shall prevent St. Mary's County from taking such other lawful action as is necessary to prevent or
43 remedy any violation.

- 44 a. No citation for a civil infraction shall be issued until the expiration of thirty (30) days
45 after the issuance of a Notice of Violation.

- 1 b. After the expiration of thirty (30) days after the issuance of a Notice of Violation, the
2 Department shall issue a citation for a municipal infraction equal to the per day fine
3 unless remediation has been commenced and is diligently pursued.

1 **ARTICLE 8. ENFORCEMENT**

2 **CHAPTER 80 ENFORCEMENT**

3 Sections:

- 4 80.1 Actions in Violation of this Ordinance.
5 80.2 Procedure for Prosecution of Violations.
6 80.3 Actions to Remedy Violations.
7 80.4 Penalties.
8 80.5 Conflict of Laws.
9 80.6 Certificate of Occupancy.
10 80.7 Right of Entry.

11 It shall be the duty of the Director of Land Use and Growth Management or designee, ("the Administrator")
12 to enforce this Ordinance and to take action as set forth in the Ordinance necessary to abate violations and
13 achieve compliance. The Administrator may bring to the attention of the Planning Commission, Board of
14 County Commissioners, or County Attorney any violations or lack of compliance herewith.

15 **80.1. Actions in Violation of this Ordinance.**

16 1. It shall be unlawful for any person, whether as owner, principal, agent, employee or otherwise, to
17 violate any provisions of this Ordinance, to permit any such violation, or to fail to comply with the
18 requirements of this Ordinance, including, but not limited to, the following:

- 19 a. To erect any building, structure, or sign, or to construct, reconstruct, alter, repair, convert or
20 maintain any building, structure or sign or other improvement contrary to any of the
21 provisions of this Ordinance or to use any building, structure, sign or land so that it is
22 operated or maintained contrary to any provision of this Ordinance.
23 b. To transfer or sell any parcel in a proposed subdivision before a plat of such subdivision
24 has been approved by the Planning Commission in accordance with the provisions of this
25 Ordinance and filed for recordation with the Office of the Clerk of the Circuit Court of St.
26 Mary's County.
27 c. To subdivide any lot or any parcel of land, by the use of metes and bounds description for
28 the purpose of sale, transfer, or lease without complying with the requirements of this
29 Ordinance.
30 d. To fail, after percolation tests have been taken, to ensure that the test hole is covered or
31 backfilled, immediately and completely.

32 2. It shall be unlawful for any lessee to use the leased premises for any activity not permitted for under
33 this Ordinance.

34 3. It shall be unlawful for any person, firm, or corporation who owns an abandoned or dangerous sign
35 to allow the sign to remain on property owned, occupied, or under the control of the person or of
36 any other person or located within a public right-of-way.

37 **80.2. Procedure for Prosecution of Violations.**

38 1. Upon becoming aware of any violation of this Ordinance, the Administrator of this Ordinance may
39 serve notice of such violation on the person committing or permitting the same, and if such violation
40 has not ceased within the time specified by the Administrator, the Administrator shall institute such
41 action as may be necessary to terminate the violation.

42 2. The Administrator or designees may serve a citation noting a municipal civil infraction to a person
43 believed to be committing or permitting a violation of this Ordinance or the owner(s) of record of
44 the property where the violation occurs. A copy of the citation shall be retained by the
45 Administrator and shall bear a certification attesting to the truth of the matters set forth therein. The
46 citation shall contain:

-
- 1 a. The name and address of the person charged;
 - 2 b. The nature of the violation;
 - 3 c. The place and time of the violation;
 - 4 d. The amount of the fine assessed;
 - 5 e. The manner, location, and time in which the fine may be paid; and
 - 6 f. The person's right to elect to stand trial in the District Court of St. Mary's County for the
 - 7 violation.
- 8 3. A person who receives a citation may elect to stand trial for the offense in the District Court of St.
 - 9 Mary's County, by filing a notice of intent to stand trial. The notice shall be given at least five days
 - 10 before the date of payment as set forth in the citation. On receipt of the notice of intention to stand
 - 11 trial, the Director of Land Use and Growth Management or designee shall forward it to the County
 - 12 Attorney who will then forward a copy of the citation and the notice to the District Court. On
 - 13 receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of
 - 14 the trial date. All fines, penalties, or forfeitures collected by the District Court for violations shall be
 - 15 remitted to St. Mary's County.
- 16 4. If a person who receives a citation for a violation fails to pay the fine by the date of payment set
 - 17 forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the
 - 18 violation shall be sent to the person's last known address. If the citation is not satisfied within 15
 - 19 days from the date of the notice, the person is liable for an additional fine not to exceed twice the
 - 20 original fine. If, after 35 days, the citation is not satisfied, the Director of Land Use and Growth
 - 21 Management or designee may request adjudication of the case through the District Court. The
 - 22 District Court shall schedule the case for trial and summon the cited person to appear.
- 23 5. Adjudication of a violation under this section is not a criminal conviction, nor does it impose any of
 - 24 the civil disabilities ordinarily imposed by a criminal conviction.
- 25 6. In a proceeding before the District Court, the violation shall be prosecuted in the same manner and
 - 26 to the same extent as set forth for municipal infractions in Article 23A, Section 3(b)(8) through (15)
 - 27 of the Annotated Code of Maryland.
- 28 7. If a person is found by the District Court to have committed a civil zoning violation, that person
 - 29 shall be liable for the costs of the proceedings in the District Court in addition to the fine(s) levied.

30 **80.3. Actions to Remedy Violations.**

31 In addition to the imposition of any monetary penalties provided in this Ordinance, the County may initiate
32 an injunction, mandamus, or any other appropriate action to prevent the erection, construction,
33 reconstruction, alteration, repair, conversion, maintenance, or use in violation of any provision of this
34 Ordinance, to restrain, correct, or abate the violation; to prevent the occupancy of the building, structure or
35 land which is the subject of the violation, or to prevent any illegal act, conduct, business, or use in or about
36 the premises. Except in the event of an emergency, private dwellings shall require appointment prior to
37 entry.

38 **80.4. Penalties.**

- 39 1. Pursuant to Article 66B, 7.01 of the Annotated Code of Maryland, the Board of County Commis-
40 sioners may provide for civil penalties for any violation of this Ordinance by establishing a schedule
41 of fines. Each day in which any such violation occurs, or in which such person fails to perform the
42 duties required of him or to comply with the provisions of those sections, shall constitute a separate
43 offense. Any person who violates a provision of this Ordinance shall become liable to the County
44 for any expense, loss, or damage occasioned by the County by reason of such violation.
- 45 2. Violation of Critical Area Regulations.
 - 46 a. The Board of County Commissioners shall establish preset fines, not to exceed \$500.00, for
 - 47 the following violations of Critical Area standards:

- 1 (1) An act for which project approval is required, which is done without having made
2 application for such approval as required by this Ordinance.
 - 3 (2) An act for which project approval is required, which is done after such approval
4 has been issued but has expired by the terms of this Ordinance.
 - 5 (3) An act done on a lot with respect to which project approval has been issued, which
6 violates or exceeds the authority conferred by that approval.
 - 7 (4) An act that violates any express covenant or condition of any project approval
8 given by the Planning Commission, the Board of Appeals, or the Planning
9 Director under this Ordinance.
 - 10 (5) Any use, development or development activity maintained within the Critical
11 Area, or land disturbance, clearing of natural vegetation, or grading within the
12 Critical Area that is prohibited by the provisions of this Ordinance.
 - 13 (6) Failure to complete any required improvements, habitat protection, reforestation,
14 afforestation, or enhancement measure within the time frame prescribed by the
15 plans for such improvements or measures.
 - 16 (7) Any act not referred to in the preceding paragraphs of this subsection that involves
17 the use of property in any manner prohibited by this Ordinance.
 - 18 (8) Knowingly or unknowingly disturbing or destroying a habitat protection area as
19 defined herein that is protected by this Ordinance.
- 20 b. Additional Penalties. A person who does not pay the original preset fine within the time
21 specified in the original citation issued in accordance with Section 80.2 above, or who fails
22 to file a timely notice of intention to stand trial and does not pay the original preset fine
23 within 15 days from the date of formal notice of the violation shall pay an additional fine as
24 established in the schedule of fees, fines and penalties adopted by the Board of County
25 Commissioners. If the area disturbed cannot easily be determined by the Department of
26 Land Use and Growth Management, then the property owner of the lot or parcel where the
27 violation has occurred may be required to provide, at the owner's expense, a survey by
28 licensed land surveyor of the disturbed area, with the square footage in violation clearly
29 provided. If the property owner does not agree with the estimate of disturbed area arrived
30 at by the Department of Land Use and Growth Management, then he/she may provide a
31 revised estimate, determined by a licensed land surveyor including a survey and plat of the
32 area of disturbance. Mandatory mitigation in the form of plantings shall also be required,
33 as deemed appropriate at the sole and absolute discretion of the Director of Land Use and
34 Growth Management.

35 **80.5. Conflict of Laws.**

36 If the provisions of any other law, ordinance, or regulation of the County or the state shall be in conflict with
37 the provisions of this Ordinance, the more stringent or restrictive provision shall control.

38 **80.6. Certificate of Occupancy.**

- 39 1. No Certificate of Use and Occupancy shall be issued until construction has been completed and the
40 premises inspected and certified to be in conformance with the plans and specifications upon which
41 the zoning permit, building permit, and other necessary permits granted.
- 42 2. No building, structure, or use of land, or any part thereof, shall be changed or converted until a
43 certificate of use and occupancy is issued for the change or conversion.

44 **80.7. Right of Entry.**

45 The Administrator or designees shall have all necessary authority on behalf of the Board of County
46 Commissioners to administer and enforce the provisions of this Ordinance, including the ordering in writing
47 of the remedying of any condition found to be in violation of this Ordinance and the bringing of appropriate
48 legal action or proceedings to insure compliance with the Ordinance. In the discharge of duties, the Adminis-
49 trator or designees' authorized representative, shall be permitted to enter at any reasonable hour any building,

1 or structure or premise intended for public use in the County to enforce the provisions of this Ordinance.
2 Private dwellings shall require appointment prior to entry. The Administrator or designees shall be guided in
3 all actions pursuant to this Ordinance by the purposes, intent, and standards set forth in the respective article
4 of the Ordinance. The Administrator or designees shall adopt a form of identification which shall be
5 displayed for the purpose of identification. The assistance and cooperation of police, fire, and health
6 departments and all other county officials may be available as required in the performance of these duties.

1 **CHAPTER 81 ABATEMENT OF NUISANCES**

2 Sections:

3 81.1 Administration.

4 81.2 Abandoned Vehicles.

5 81.3 Obstructions to Cross-Visibility; Notice and Order to Remove; Hearings.

6 **81.1. Administration.**

7 The administration of this chapter shall be under the direction of the Director of Land Use and Growth
8 Management, who shall investigate violations, and perform such other duties as be necessary for the
9 enforcement of the provisions of this chapter.

10 1. **Complaints.** It shall be the duty of all departments and agencies of the County to forward to the
11 Director of Land Use and Growth Management inquiries, complaints, reports, or information
12 relative to abandoned vehicles, and obstructions to cross-visibility, unsafe property, structures and
13 buildings.

14 **81.2. Abandoned Vehicles.**

15 1. **Prohibition Against Abandonment on County-Owned or Private Property.**

16 a. Except as provided herein, no vehicle shall be abandoned on any property within the
17 County. This subsection shall not apply to a vehicle on the premise devoted to the repair,
18 renovation, or servicing of vehicles; a vehicle in an approved storage place or depository
19 maintained in a lawful place and manner by the County; or a vehicle inside a fully
20 enclosed structure or similarly enclosed area designed and approved for such purposes.

21 b. The abandonment of any vehicle on any property within the County shall constitute a
22 public nuisance and is deemed to be detrimental to the health, safety and welfare of the
23 inhabitants of the County. It shall be the duty of the registered owner of the vehicle, or
24 the owner of record of the property, to abate the nuisance through removal of the vehicle
25 from view from any public street, or to have the vehicle stored inside a fully-enclosed
26 structure or similarly enclosed area designed and approved for such purposes.

27 c. Vehicles abandoned or left unattended for more than 48 hours on County-owned property
28 or within a County-owned right-of-way may be removed. Vehicles abandoned or left
29 unattended on County-owned property or within a County-owned right-of-way may be
30 removed immediately under the following circumstances:

31 (1) The vehicle is impeding, or is likely to impede, vehicular or pedestrian traffic.

32 (2) The vehicle's location violates any Federal, State or local government law, rule
33 or regulations.

34 (3) The vehicle is located in any zone that has been limited to designated classes of
35 vehicles, or where parking is prohibited during certain hours on designated days
36 or at all times, or where such vehicle is interfering with the proper and intended
37 use of each zones.

38 (4) When the vehicles poses a danger to public safety.

39 (5) When the vehicle is obstructing law enforcement, fire, or emergency operations,
40 maintenance paving, or snow/ice or debris removal.

41 2. **Additional Remedy; Removal by County; Hearing.**

42 a. In addition to the authority to remove any abandoned or unattended vehicle, the Director
43 of Land Use and Growth Management may issue a written citation to the registered
44 owner of the vehicle abandoned in violation of Section 81.2 requiring that the vehicle be
45 removed from view from any public street, stored inside a fully enclosed structure or

1 similarly enclosed area designed and approved for such purposes, or that the violation be
2 otherwise abated within 15 days.

3 b. This citation may be served on the appropriate party either personally, by first-class
4 certified or registered mail or by affixing said citation to the vehicle abandoned in
5 violation of Section 81.2.

6 c. In the event that any person fails to comply with any citation issued pursuant to this
7 section, the Director of Land Use and Growth Management may have the vehicle
8 removed and disposed of and may impose on the person violating the citation a
9 reasonable charge to cover the costs, for the removal and disposition of the vehicle.

10 d. Any person aggrieved by a citation issued or decision or action taken pursuant to this
11 section may request a hearing before the Board of Appeals as specified in Chapter 23.

12 3. **Removal by Agreement.** The Director of Land Use and Growth Management may, on the proper
13 execution by the owner of a waiver and authorization agreement in a form approved by the County
14 Attorney, and subject to there being resources available for that purpose, remove and dispose of
15 any vehicle abandoned on property within the County, at no cost to the person involved.

16 **81.3. Obstructions to Cross-Visibility; Notice and Order to Remove; Hearings.**

17 1. Whenever the Director of the Department of Land Use and Growth Management finds that there
18 exists on any private property within the County any trees, bushes, vines, weeds, undergrowth,
19 loose earth or other obstructions that obstruct the vision of operators of vehicles traveling upon
20 any County road so as to constitute a traffic hazard, the Director of the Department of Land Use
21 and Growth Management shall immediately serve the owner, agent, lessee or any other person
22 having supervision over such property a written citation describing the premises whereon such
23 obstruction exists, a statement of the particulars in which the vision of operators of vehicles is
24 obstructed, including the steps necessary to correct such conditions, and a citation directing that
25 corrective steps be taken within a stated period of time.

26 2. Any person who considers himself aggrieved by any order issued pursuant to this section may,
27 within 5 days of the receipt of such citation, petition the Director of Land Use and Growth
28 Management, in writing, for a hearing thereon. Within 7 days from the receipt of such petition,
29 the Director shall hold such a hearing, after which he may affirm, modify or rescind the citation.
30 No official shall remove any obstruction or enforce any order issued under this section until after
31 such a petition has been filed.

32 3. All orders and notices issued by the Director of Land Use and Growth Management pursuant to
33 this section shall be served on the person to whom they are directed, either by registered or
34 certified first-class mail or by personal delivery to such person. If such person is not known to
35 reside and cannot be found in the County, such service shall be made by publication of such
36 citation once in a newspaper of general circulation in the County and by posting the same on the
37 premises in a conspicuous manner. Service by publication and posting shall be deemed to be
38 made on the day of publication or posting.

39 4. Upon failure of any person to comply with the provisions of any order issued under this section,
40 within the time specified therein, the Director of the Department of Land Use and Growth
41 Management shall direct the Director of the Department of Public Works and Transportation to
42 enter upon the property where the obstruction is located and remove all or such part of the
43 obstruction as may be necessary to eliminate the traffic hazard.

44 5. Whenever it is necessary for the Director of the Department of Public Works and Transportation to
45 provide for the removal or elimination of any type of obstruction referred to in this section, he
46 shall file with the Treasurer a certified statement of the cost to the County of such removal or
47 elimination, together with proof of service of the notice. The cost of such removal, together with
48 the cost of providing notice, shall constitute a charge and lien against the property and shall be
49 collected in the same manner, as are real estate taxes.

- 1 6. **Exceptions.** The provisions of this Section shall not apply to the following:
- 2 a. Permanent buildings.
- 3 b. Existing grades that, by reason of natural topography, exceed 24 inches above the level of
- 4 the center of the adjacent intersection, provided that no obstruction to cross-visibility not
- 5 specifically excepted here from shall be installed, set out, or maintained on any existing
- 6 grade that is more than 24 inches and less than 72 inches above the level of the center of
- 7 the adjacent intersection.
- 8 c. Trees having limbs and foliage trimmed in such manner that no limbs or foliage extend
- 9 into the area between 24 inches and 72 inches above the level of the center of the
- 10 adjacent intersection.
- 11 d. Fire hydrants, public utility poles, street markers, and traffic control devices.

1 **ARTICLE 9. DEFINITIONS AND RULES OF MEASUREMENTS**

2 **CHAPTER 90 DEFINITIONS**

3 **Abandoned Vehicle.** Any motor vehicle, trailer or semi-trailer, or watercraft that is inoperative and left
4 unattended on public or private property; or that has remained illegally on public or private property; or that
5 has remained on public or private property and (a) does not display valid registration plates or (b) displays
6 registration plates of another vehicle.

7 **Acceptable Outfall.** The tidewater or that point where storm water can be released to a channel without
8 causing scouring, erosion, or resulting sedimentation to the receiving channel or its floodplain.

9 **Accessory Apartment.** A secondary residential use incidental to the principal permitted or conditionally
10 approved use on a site, whether comprising a portion of the principal structure on the site or located within
11 an accessory structure or building.

12 **Accessory Structure, Building or Use.** A building or use that is all of the following: a) constructed or
13 located on the same zoning lot as the allowable main building or use served, except as may be specifically
14 provided elsewhere in this Ordinance (see Section 11.2.4.b); b) clearly incidental to, subordinate in purpose
15 to, and serving the allowable use; and c) either in the same ownership as the allowable structure, building
16 or use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the
17 occupants, employees, customers, or visitors of the allowable use.

18 **Accident Potential Zone (APZ).** Areas created to protect persons living and working in or property in the
19 vicinity of airports, landing strips.

20 **Afforestation.** Includes establishment of a forest on an area from which forest cover has been absent for a
21 long period of time; planting of open areas which are not presently in forest cover; or establishment of a
22 forest according to procedures set forth in the Forest Conservation Technical Manual.

23 **Agricultural Activity.** Farming activities, including but not limited to plowing, tillage, cropping,
24 installation of best management practices, seeding, cultivating, and harvesting for production of food and
25 fiber products, the grazing and raising of livestock, manure storage/composting of natural organic material,
26 aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized
27 commercial enterprise. The application of odor producing fertilizers must be in compliance with applicable
28 state and county regulations.

29 **Agricultural Land.** Land carried on the tax rolls of the State Department of Assessments and Taxation as
30 agricultural, or which is used for the purpose of conducting agriculture.

31 **Agricultural Operation.** Includes, but is not limited to, all matters set forth in the definition of "operation"
32 of Md. Cts. & Jud. Proc. Code Ann., 5-403(a), as amended from time to time; the production of all matters
33 encompassed within the definition of "Farm Product" at MD. Agriculture Code Ann., 10-601(c), as
34 amended from time to time; the cultivation and tillage of the soil; composting, production, harvesting and
35 processing of agricultural crops; raising poultry; production of egg, production of milk and dairy products;
36 production of livestock, including pasturage; production of bees and their products; production of fish;
37 production of fruit, vegetables and other horticultural crops; production of aquatic plants; aquaculture;
38 production of timber and commercial agricultural procedures performed as incident to or in conjunction
39 with such operations, including preparation for market, delivery to storage or to market or to carriers for
40 transportation to market; and usage of land in furtherance of educational and social goals, (including, but
41 not limited to 4-H clubs and Future Farmers of America), agro-tourism and alternative agricultural
42 enterprises; and the like. The application of odor producing fertilizers must be in compliance with
43 applicable state and county regulations.

44 **Agricultural Tourism.** Activities conducted on a working farm or vineyard and offered to the public or to
45 invited groups for the purpose of recreation, education or active involvement in the farm operation, and
46 which are related to agriculture or natural resources and incidental to the primary operation on the site.
47 Agricultural tourism activities include farm tours, hay rides, corn mazes, classes related to agricultural
48 products or skills, picnic and party facilities offered in conjunction with the above, and similar uses.

49 **Agriculture.** The use of land for the production and primary processing of food and fibers for sale,
50 including cultivating, dairying, horticulture, pasturing, floriculture, silviculture, viticulture, animal and
51 poultry husbandry, and such incidental accessory facilities as greenhouses and nurseries, provided that the
52 operation of such accessory facilities shall be clearly secondary to normal agricultural activities.

- 1 Agriculture includes, but is not limited to, the related activities of tillage, fertilization, pest control,
2 harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and
3 maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their
4 by-products.
- 5 **Amenity Space.** Useable open space that has been improved for the purpose of providing residents with an
6 enhanced recreational, social, artistic or cultural experience, including outdoor seating areas, walking paths,
7 public art, public gardens, plazas, water features or other improvements as approved by the Planning
8 Director.
- 9 **Anadromous Fish.** Fish that travel upstream from their primary habitat in the ocean to freshwater in order
10 to spawn.
- 11 **Apartment.** Multi-family dwelling units in a single structure that share common entrances and exits.
12 Ownership is not a factor in this type of unit, and may be either a rental or a condominium.
- 13 **Animation.** Any change in physical position by any movement or rotation or which gives the visual
14 impression of such movement or rotation in a sign. This includes the foreground and background of the
15 sign.
- 16 **Aquaculture.** The farming or culturing of finfish, shellfish, other aquatic plants or animals, or both, in
17 lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments. Activities
18 include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals
19 and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation
20 methods include, but are not limited to, seed or larvae development and grow-out facilities, fish pens,
21 shellfish rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and
22 subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales,
23 processing and product storage facilities are not considered aquacultural practices. See also "Land Based
24 Aquaculture," "Water Based Aquaculture," and "Fisheries Activities"
- 25 **Areas of Animal Confinement.** Structures, feeding or storage and sleeping areas, and fenced in areas over
26 which animals are allowed to roam.
- 27 **Arms-Length Transfer.** A transaction between two related or affiliated parties that is conducted as if they
28 were unrelated, so that there is no question of a conflict of interest; or a transaction between two unrelated
29 parties.
- 30 **Basement.** That portion of a building having more than one-half (1/2) of its height below lot grade
31 elevation.
- 32 **Barren Land.** Unmanaged land having sparse herbaceous vegetation. Land which has lain fallow and
33 developed woody vegetation for 5 years by definition, shall be considered to be forest.
- 34 **Base Flood.** The 100-year frequency flood event as indicated in the (FEMA) Flood Insurance Study
35 February 1987 as amended, the elevation of which is used for regulatory purposes in this Ordinance.
- 36 **Base Flood Elevation.** The flood elevation of the lowest habitable floor of any building. A floor used only
37 for storage purposes is not a habitable floor, nor is an unfinished area or enclosure usable solely for
38 parking of vehicles or building access considered habitable.
- 39 **Best Management Practices (BMPs).** Conservation practices or systems of practices and management
40 measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste,
41 toxicants, and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing,
42 contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally
43 vegetated filter strips, and proper nutrient application measures.
- 44 **Blinking.** To illuminate intermittently at a rate of change that is less than the allowable frequency.
- 45 **Block.** An area of land bounded by streets, or by a combination of streets and public parks, cemeteries,
46 railroad rights-of-way, shorelines of waterways, or municipal boundary lines.
- 47 **Block face.** The properties abutting on one side of a street and lying between two nearest intersecting or
48 intercepting streets, or nearest intersecting or intercepting street, unsubdivided land, watercourse, or
49 municipal boundary.

- 1 **Boarding and Rooming House.** A residential building or portion thereof, other than a motel, or hotel,
2 which contains lodging rooms which accommodate not more than 20 persons who are not members of the
3 keeper's family. Lodging with or without meals is provided for compensation on a weekly or monthly
4 basis.
- 5 **Bona-Fide Agricultural Use or Activity.** In the Critical Area agriculture means all methods of production
6 and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related
7 activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited
8 to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats,
9 hogs, horses, and poultry and handling their by-products. Outside the Critical Area agriculture means
10 farming activities including plowing, tillage, cropping, installation of best management practices, seeding,
11 cultivating, and harvesting for production of food and fiber products, the grazing and raising of livestock,
12 aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized
13 commercial enterprise. The application of odor producing fertilizers must be in compliance with applicable
14 state and county regulations.
- 15 **Buffer, Critical Area.** A naturally vegetated area or vegetated area established or managed to protect
16 aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances.
- 17 **Buffer.** A strip or area of land, identified on a site plan or in a zoning ordinance, established to separate
18 one type of land use from another land use. Normally, the area is landscaped or kept in open space use.
- 19 **Buffer Management Plan.** A narrative, graphic description, or a plan of the buffer that is necessary when
20 an applicant proposes a development activity that will affect a portion of the buffer, alter buffer vegetation,
21 or require the establishment of a portion of the buffer in vegetation.
- 22 **Building, Detached.** A building surrounded by an open space on the same lot.
- 23 **Building Height.** The vertical distance measured finished grade elevation to the highest point of the
24 underside of the building beams, in the case of a flat roof; to the deck line of a mansard roof; and to the
25 mean level of the under side of rafters between the eaves and the ridge of a gable, hip, or gambrel roof.
- 26 **Building, Principal.** Any building which houses a primary or principal use of the land on which it is
27 located.
- 28 **Building Setback Line.** A line measured a distance specified by this ordinance from the front lot line
29 which no building or structure may be erected.
- 30 **Caliper.** The diameter of a tree trunk measured at 2 inches above the root collar.
- 31 **Canopy.** A roof-like structure of a permanent nature which may be freestanding or projected from a wall of
32 a building or its supports.
- 33 **Canopy Tree.** A tree that, when mature, reaches a height of at least 35 feet.
- 34 **Cemetery.** Land used for the burial of the dead, and dedicated for cemetery purposes, including
35 columbariums, crematories, mausoleums, and mortuaries, when operated in conjunction with and within
36 the boundary of such cemetery.
- 37 **Certificate of Occupancy.** The certificate issued by the Planning Director or designee which permits the
38 use of a building or premises in accordance with the approved plans or permits and the provisions of law
39 for the use and occupancy of the building in its several parts, together with any special stipulations or
40 conditions of the zoning permit.
- 41 **Certificate of Title (Ownership).** An official document that contains the following language: A) I/we,
42 owners of the property shown hereon, hereby adopt this site plan of [subdivision name] upon its approval
43 by all required agencies. B) I/we hereby certify that this is a plan of a portion of the property conveyed unto
44 [owner's name] by deed dated [date] from [seller's name] as recorded in the land records of St. Mary's
45 County, Maryland, in Liber [reference] at Folio [reference]. There are no suits or action at law, leases,
46 liens, mortgages or trusts affecting this site plan of [subdivision name] except as noted or shown hereon.
47 All parties in interest thereto have affixed their signatures indicating their assent to this plan. C) I/we
48 further establish the minimum building restriction lines as required by the Zoning Ordinance of St. Mary's
49 County and dedicate the streets, walkways, easements, rights of way, and other improvements, where
50 applicable, to public use.
- 51 **Champion Tree.** The largest tree of its species within the United States, the state, county, or municipality.

- 1 **"Channel"** is established as the middle two quarters of the width of navigable bodies of water, OR all
2 areas of these water bodies that are at least 200 feet from a shore.
- 3 **Child Care Center (or Day Care Centers).** Any place, home or institution which receives nine (9) or
4 more children under the age of 14 years, and not of common parentage, for care apart from their natural
5 parents, legal guardians, or custodians, when received for regular periods of time for compensation,
6 provided that this definition shall not include public or private schools organized, operated, or approved
7 under Maryland laws, custody of children fixed by a court of competent jurisdiction, children related by
8 blood or marriage within the third degree to the custodial person, or to churches or other religious or public
9 institutions caring for children within the institutional building while their parents or legal guardians are
10 attending service, activities, or meetings.
- 11 **Clearing.** The removal of trees and brush from the land not including the ordinary mowing of grass.
- 12 **Clinic - Medical or Dental.** A common building in which an organization of specializing physicians
13 and/or dentists have their offices. A clinic shall not include in-patient care (i.e., no overnight
14 accommodation of patients).
- 15 **Cluster Development.** A residential cluster development encourages and permits variations in
16 developments by allowing variation in lot size, lot dimensions, and lot coverage from that which is
17 normally required in the applicable zoning district. Dwelling units are concentrated in a selected area or
18 selected areas of the development tract in order to provide natural habitat or other open space uses
19 (including agriculture) on the remainder.
- 20 **Colonial Nesting Water Birds.** Includes herons, egrets, terns, and glossy ibis. For purposes of nesting,
21 these birds congregate or colonize in relatively few areas, at which time, the regional populations of these
22 species are highly susceptible to local disturbances.
- 23 **Color.** A specific combination of hue, saturation, and lightness or brightness; a color other than and as
24 contrasted with black, white or gray.
- 25 **COMAR.** The Code of Maryland regulations promulgated pursuant to various statutory authorities by
26 agents of the State.
- 27 **Communication Tower.** Any radio, television or communication antenna or tower for uplink, downlink,
28 relay, broadcast or reception of communication signals, but not including either mobile transmitters and
29 receivers or any such facilities with a transmission power of less than 7 watts.
- 30 **Community Noise Equivalent Level (CNEL).** A 24-hour energy equivalent level derived from a variety
31 of single-noise events, with weighting factors of 5 and 10 dB applied to the evening (7:00 to 10:00 p.m.)
32 and nighttime (10:00 p.m. to 7:00 a.m.) periods, respectively, to allow for the greater sensitivity to noise
33 during those hours. (see also Day-Night Average Sound Level)
- 34 **Community Piers.** Boat docking facilities associated with subdivisions and similar residential areas, and
35 with condominium, apartment, and other multiple-family dwelling units. Private piers are excluded from
36 this definition.
- 37 **Community Sewerage System.** Any system, whether publicly or privately owned, serving multiple lots,
38 dwelling units, businesses, commercial or industrial establishments for the collection, transportation and
39 disposal of sewage or industrial wastes of liquid nature, including various devices for the treatment of such
40 sewage and industrial wastes, as defined by the Comprehensive Water and Sewerage Plan.
- 41 **Community Water Supply.** A source of water and a distribution system, including treatment and storage
42 facilities, whether publicly or privately owned, multiple lots, dwelling units, businesses or commercial or
43 industrial developments, as defined by the Comprehensive Water and Sewerage Plan.
- 44 **Comprehensive Plan.** The Comprehensive Plan for St. Mary's County (*Quality of Life in St. Mary's*
45 *County - A Strategy for the 21st Century*), as approved by the Board of County Commissioners, including
46 any amendments or extensions.
- 47 **Comprehensive Water and Sewerage Plan.** The adopted St. Mary's County Water and Sewerage Plan.
- 48 **Conditional Use.** A specific use that would not be appropriate generally or without restriction, the granting
49 of which shall be based upon a finding by the Board of Appeals that certain conditions governing the
50 proposed conditional use as detailed in this Ordinance exist, that the use conforms to the comprehensive
51 plan and that it is compatible with the existing neighborhood.

- 1 **County Commissioners.** The Board of County Commissioners for St. Mary's County Maryland.
- 2 **County Road.** A public road or street which is part of the Highway Maintenance System of St. Mary's
3 County.
- 4 **County.** The County of St. Mary's, Maryland.
- 5 **Critical Area.** All lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated
6 Code of Maryland and modification(s), if any, to these areas through inclusions or exclusions proposed by
7 the County Commissioners and approved by the Maryland Chesapeake Bay Critical Area Commission as
8 specified in said Section 8-1807.
- 9 **Critical Habitat Area.** A habitat occupied by a rare, threatened or endangered species as determined or
10 listed under Natural Resources Article, §§4-2A-04 and 10-2A-04, Annotated Code of Maryland, and its
11 surrounding protection area. A critical habitat area shall: A) be likely to contribute to the long-term
12 survival of the species; B) be likely to be occupied by the species for the foreseeable future; and C)
13 constitute habitat of the species which is considered critical under Natural Resources Article, §§4-2A-04
14 and 10-2A-06, Annotated Code of Maryland.
- 15 **Culvert.** A drainage structure placed beneath an embankment typically with a span of less than twenty (20)
16 feet.
- 17 **Day.** Calendar day, unless otherwise specified.
- 18 **Day-Night Average Sound Level (Ldn).** The A-weighted average sound level in decibels during a 24-
19 hour period with a 10 dB weighting applied to nighttime sound levels (10 p.m. to 7 a.m.). This exposure
20 method is similar to the CNEL, but deletes the evening time period (7 p.m. to 10 p.m.) as a separate factor.
- 21 **Diameter at Breast height DBH** Standard measure of tree size measured at 4'-6" above grade.
- 22 **Declaration of Intent (DOI).** A signed and notarized statement by a landowner or the landowner's legally
23 authorized agent certifying that the activity on the landowner's property is:
- 24
- 25 1. exempted under this Ordinance or Natural Resources Article, §§5-103 and 5-1601--5-1612,
26 Annotated Code of Maryland,
- 27 2. does not circumvent the requirements of this Ordinance or Natural Resources Article, §§5-103 and
28 5-1601--5-1612, Annotated Code of Maryland, and
- 29 3. does not conflict with the purposes of any other declaration of intent. A DOI is required under the
30 Code of Maryland Regulation (COMAR).
- 31 **Demolition by Neglect.** A condition where the principal structure of a historic resource has become unsafe
32 as a result of 1) the deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so
33 as to create or permit a hazardous or unsafe condition to exist, or 2) the deterioration of the foundations,
34 exterior walls, roofs, chimneys, doors, windows, the lack of adequate waterproofing, or the deterioration of
35 interior features which will or could result in permanent damage, injury, or loss of or loss to foundations,
36 exterior walls, roofs, chimneys, doors, or windows.
- 37 **Density.** The allowable, proposed or existing number of dwelling units per acre within a defined and
38 measurable area.
- 39 **Department.** St Mary's County Department of Land Use and Growth Management.
- 40 **Develop Land.** To change the runoff characteristics of a parcel of land in conjunction with residential,
41 industrial, commercial, or institutional construction or alteration.
- 42 **Developable Land.** Land that is unconstrained by such conditions as steep slopes, floodplains, or adverse
43 soil or water conditions that preclude development, and that does not have a significant environmental
44 resource identified such as wetland or critical riparian habitats.
- 45 **Developed Woodland.** Those area of 1 acre or more in size that predominately contain trees and natural
46 vegetation and which also include residential, commercial or industrial structures or uses. On individual
47 lots or parcels of less than 1 acre, individual trees, woody vegetation, as well as natural vegetation and
48 forests contribute to the developed woodland coverage for the larger vicinity and shall be subject to the
49 provisions of this Ordinance.

1 **Developer.** A person with freehold, possessory or contractual interest in land proposed for development.
2 See also “Subdivider.”

3 **Development.** The construction or substantial alteration of open lands, or agricultural, residential,
4 commercial, industrial, institutional, or transportation facilities or structures including any man-made
5 change to improved or unimproved real estate, including, but not limited to buildings and other structures,
6 dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or
7 materials. Development includes the process of subdivision.

8 **Development Envelope.** The onsite area used, reserved or dedicated for any and all of the following:
9 development lots; zoning setbacks, zoning buffers; rights-of-way or easements established for roads,
10 utilities, stormwater management and on-site sewage disposal; areas of lot coverage associated with
11 structures, roads, streets, parking, sidewalks; outdoor areas within yards, parks, or landscaped green areas;
12 recreational areas; areas cleared or graded, and any additional acreage necessary to meet the development
13 requirements of this Ordinance. To the extent practicable, sensitive areas and their environmental buffers,
14 green infrastructure and forest conservation easements should be excluded from the development envelope.

15 **Development Project Completion.** Means, for the purposes of afforestation, reforestation, or payment of
16 “fees-in-lieu” into a fund: A) the release of the development bond, if required; B) acceptance of the
17 project's streets, utilities, and public services by the responsible Department(s); or C) designation by the
18 Department of Land Use and Growth Management or the state that a development project has been
19 completed, or a particular stage of a staged development project, including a planned unit development, has
20 been completed.

21 **Display Area.** That part of the sign background actively involved with changeable text.

22 **Distillery.** A facility operated under a Class 1 Manufacturer’s license pursuant to §2-202 of Article 2B of
23 the *Annotated Code of Maryland*.

24 **District.** Any section of the unincorporated territory of St. Mary's County within which the zoning
25 regulations are uniform.

26 **Drive through (also Drive-up Access)** A place of business operated for the retail sale of food and other
27 goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while
28 remaining in their motor vehicles or allows the consumption of any food or beverages obtained from a
29 carry-out window in motor vehicles or elsewhere on the premises.

30 **Driveway.** A private access road, drive or lane to an individual residence which is contained within the lot
31 or parcel and is not intended to serve any other lot or parcel of land.

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

35 **Dwelling, Attached.** A dwelling that is joined to another dwelling at one or more sides by a wall or part
36 walls.

37 **Dwelling, Detached.** A dwelling that is entirely surrounded by open space on the same lot.

38 **Dwelling, Multiple- family (also “multi-family).** A building, or portion thereof, containing three (3) or
39 more dwelling units.

40 **Dwelling, Single-family.** A building containing one (1) dwelling unit as a principal use.

41 **Dwelling Unit.** One room, or rooms connected together, constituting a separate, independent housekeeping
42 establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically
43 separated from any other rooms or dwelling units which may be in the same structure, and containing in-
44 dependent cooking and sleeping facilities.

45 **Easement.** A right to land generally established in a real estate instrument or on a recorded plat to permit
46 the use of land by the public, a corporation or particular persons for specified uses.

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

49 **Electronic Changeable Copy Sign.** An on-premise sign displaying a message, which may be changed
50 every ten seconds by electronic controls.

12/31/13

- 1 **Enclosed Storage.** A building with walls on all sides, where items are stored for a fee.
- 2 **Equestrian Activity.** The care, breeding, boarding, rental, riding or training of horses or the teaching of
3 equestrian skills.
- 4 **Equestrian Event.** A competition, exhibition, or other display of equestrian skills.
- 5 **Equestrian Facility.** Any building, structure, or land area that is used for an equestrian activity or event.
- 6 **Excavation.** Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or
7 relocated including the conditions resulting therefrom.
- 8 **Exterior Features.** The architectural style, design, and general arrangement of the exterior of a historic
9 resource, including the color, nature, and texture of building materials, and the type and style of all
10 windows, doors, light fixtures, signs, or other similar items found on, or related to, the exterior of a historic
11 resource.
- 10/02/12 12 **Family Day Care .** A private residence where a maximum of twelve (12) children receive care and
13 supervision for periods of less than 24 hours per day.
- 14 **Family.** One or more persons occupying a dwelling unit and using common cooking facilities, provided
15 that unless all members are related by blood or marriage, or legal adoption, no such shall contain more than
16 four (4) non-related persons. Family members related by blood or marriage shall be a father, mother, son,
17 daughter, grandfather, grandmother, grandson and granddaughter.
- 12/18/12 18 **Farm Brewery.** A facility operated under a Class 8 Farm Brewery License pursuant to §2-209 of Article
19 2B of the *Annotated Code of Maryland*.
- 20 **Farm Plan.** A "Soil Conservation and Water Quality Plan" prepared by the Soil Conservation District.
- 21 **Farmstead.** An area of 15 acres or more in single ownership which is a lot of record.
- 22 **Fence.** A barrier made of wire, wood, metal, masonry, or other material used as a screen or enclosure for a
23 yard or open space. It includes a wall, gate, or structure which functions to enclose an open space or yard;
24 however, a retaining wall, freestanding sign, or landscape structure is not considered a fence except for that
25 portion which functions as a fence.
- 26 **Fill.** A deposit of materials or any kind placed by artificial means.
- 27 **Fishing Vessels** Watercraft used for the commercial harvesting of finfish or shellfish.
- 28 **Flood-Plain Related Terms.**
- 29 Base Flood (Elevation)(BFE). The (flood) elevation of the lowest habitable floor of any building as
30 established in a flood elevation certificate executed by a Maryland licensed property line or land
31 surveyor. A floor used only for storage purposes is not a habitable floor, nor is an unfinished area or
32 enclosure usable solely for parking of vehicles or building access considered habitable. Where the
33 boundaries of the flood and mudflow related erosion areas having special hazards have been
34 designated as Zone A, M and/or E.
- 35 Flood Insurance Rate Map (FIRM). - Map which depicts the minimum special flood hazard area to
36 be regulated by this Ordinance (unless a Floodway Map is available).
- 37 Floodplain. Land typically adjacent to a body of water with ground surface elevations that are
38 inundated by the base flood.
- 39 Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustment to
40 structures which reduce or eliminate flood damage to real estate or improved real property, water and
41 sanitary facilities, structure and their contents.
- 42 Floodproofing Certificate. Form supplied by FEMA to certify that a building has been designed and
43 constructed to be structurally dry floodproofed to the Flood Protection Elevation.
- 44 Flood Protection Elevation (FPE). The base flood elevation plus one foot.
- 45 Floodway. The channel of a river or other watercourse and adjacent land areas that must be reserved
46 in order to discharge the base flood without cumulatively increasing the water surface elevation more
47 than a designated height.

1 Floodway Map. Map depicting floodways and special flood hazard areas which are regulated by this
2 Ordinance.

3 Floodway Fringe. That portion of the floodplain outside the floodway.

4 100-Year Floodplain. An area along or adjacent to a stream or body of water, except tidal waters, that
5 is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100-
6 year flood.

7 **Floor Area Ratio, (FAR)** See “Rules of Measurement”, Chapter 91

8 **Flow Attenuation**. Prolonging the flow time of runoff to reduce the peak discharge.

9 **Forest**. A biological community dominated by trees and other woody plants covering a land area of 10,000
10 square feet or greater. Forest includes: A) areas that have at least 100 live trees per acre with at least 50
11 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and B)
12 areas that have been cut but not cleared. “Forest” does not include orchards. “Successional forest areas”
13 are once forested areas that have been subjected to a timber harvest, remained as fallow agricultural land, or
14 that were cleared in any other way and now have vegetative growth dominated (at least 50%) by species of
15 woody vegetation (trees and shrubs) and where man-made disturbance has been absent for 5 years or more
16 as determined by the Planning Director.

17 **Forest Conservation and Management Agreement**. An agreement as stated in the Tax-Property Article,
18 §8-211, Annotated Code of Maryland.

19 **Forest Conservation Plan**. A plan prepared pursuant to Natural Resources Article, §§5-1606 and 5-1607,
20 Annotated Code of Maryland.

21 **Forest Conservation Technical Manual**. The technical manual for forest conservation adopted by the
22 Maryland Department of Natural Resources and incorporated by reference herein.

23 **Forest Conservation**. The retention of existing forest or the creation of new forest at the levels set by the
24 state or county.

25 **Forest Cover**. The area of a site meeting the definition of forest.

26 **Forest Interior Dwelling Species (FIDS)**. Species of birds, animals and plants that require relatively large
27 forested tracts in order to breed, reproduce or live successfully (for example, various species of flycatchers,
28 warblers, vireos, and woodpeckers).

29 **Forest Interior Dwelling Species (FIDS) Habitat**. Relatively large, undisturbed forested tracts required
30 for FIDS species to breed or live successfully. Criteria for determining potential FIDS habitat are: A) any
31 riparian forest of at least 300 feet in width, B) upland and riparian forest areas of approximately 100 acres
32 or more (calculation of forest tract size includes adjacent off-site areas and areas harvested for timber); C)
33 any forested tract regardless of size or location identified by the Department of Natural Resources as
34 "potential" or "probable" FIDS habitat; or D) any forested area, regardless of size or location, where the
35 presence of at least 4 of the kinds of sensitive species is found to be "probable" or "confirmed" by approved
36 survey criteria, or where at least one species is found to be "present" by the same criteria.

37 **Forest Management Plan**. A plan establishing best conservation and management practices for a
38 landowner in assessment of the resource values of forested property.

39 **Forest Management**. The protection, manipulation, and utilization of the forest to provide multiple
40 benefits, such as timber harvesting, water transpiration, wildlife habitat, etc.

41 **Forest Related Terms**

42 Approved Forest Management Plan. A document approved by the State of Maryland Department of
43 Natural Resources forester that operates as a protective agreement for forest conservation.

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

47 Commercial Logging or Timber Harvesting Operations. The cutting and removing of tree stems from
48 a site for commercial purposes, leaving the root mass intact.

- 1 **Forest Harvesting.** A method of removing woodland vegetation without disturbing the soil surface by
2 grubbing or digging. Except for travel over top of them, existing ground covers, stumps and root
3 mats are left intact.
- 4 **Forest Interior Dwelling Species.** Species of birds which require relatively large forested tracts in
5 order to breed successfully and as listed by the Maryland Department of Natural Resources.
- 6 **Forest Management.** The protection, manipulation, and utilization of the forest to provide multiple
7 benefits, such as timber harvesting, water transpiration, wildlife habitat, etc.
- 8 **Forest Management Plan.** A plan establishing best conservation and management practices for a
9 landowner in assessment of the resource values of forested property.
- 10 **Forest Stand Delineation.** The methodology for evaluating the existing vegetation on a site proposed
11 for development, as provided in the St. Mary's County Forest Conservation Technical Manual.
- 12 **Forestry Operation.** Includes, but is not limited to, the propagation, raising, cultivation, and
13 production of all products derived from the practice of forestry on site, as encompassed within the
14 definition of practice forestry set forth in Md. Bus. Occ. & Prof. Code Ann. 67-101(e), as amended
15 from time to time.
- 16 **Natural Forest Vegetation.** A biological community composed of species predominately native to
17 Maryland with at least 50% of the plants comprised of canopy and understory trees, shrubs and other
18 woody plants and the remainder in herbaceous plants.
- 19 **Reforestation or Reforested.** Includes the:
- 20 1. Creation of a biological community dominated by trees and other woody plants
21 containing at least 100 live trees per acre with at least 50 percent of those trees having the
22 potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground,
23 within 7 years; or
- 24 2. Establishment of a forest according to procedures set forth in the Forest Conservation
25 Technical Manual; or
- 26 3. Landscaping of areas under an approved landscaping plan establishing a forest at least 35
27 feet wide and covering 2500 square feet or more of area.
- 28 **Timber Harvesting.** A tree cutting operation affecting 1 or more acres of forest or developed
29 woodland within a 1-year interval that disturbs 5,000 square feet or more of forest floor. Timber
30 harvesting does not include grubbing and clearing of root mass.
- 31 **Tree.** A large, branched woody plant having one or several self-supporting stems or trunks that
32 reaches a height of at least 20 feet at maturity.
- 33 **Forest Stand Delineation.** The methodology for evaluating the existing vegetation on a site proposed for
34 development, as provided in the St. Mary's County Forest Conservation Technical Manual.
- 35 **Freeboard.** An increment of elevation added to the base flood elevation to provide a factor of safety for
36 uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.
- 37 **Frequency.** The number of oscillations per second in a sound wave or an index of pitch of the resulting
38 sound.
- 39 **Frontage Zoning Lot.** The length of all the property of such zoning lot fronting on a street measured
40 between side lot lines.
- 41 **Frontage.** The length of all the property fronting on one side of a street between the two nearest
42 intersecting streets, measured along the line of the street; or if dead-ended, then all of the property abutting
43 on one side between an intersection street and dead end of the same.
- 44 **Fueling Position.** A location at which a single vehicle may be fueled from a product dispenser. The
45 number and precise location of "fueling positions" presented on any site shall be determined by Chapter 51.
- 46 **Garage Sale.** See Yard Sale.
- 47 **Garden Apartments.** See Apartments.

1 **Grade Elevation.** A measurement determined by averaging the elevations of the finished ground at all
2 corners and/or other principal points in the perimeter wall of the building.

3 **Grade-Related Terms.**

4 Existing Grade. The vertical location of the existing ground surface prior to excavating or filling.

5 Finished Grade. The final grade or elevation of the ground surface conforming to the proposed
6 design.

7 Grading. Any stripping, excavating, filling, including hydraulic fill, stockpiling or any combination
8 thereof. Grading does not include plowing, disking and cultivating for lawn establishment or
9 renovation.

10 **Gross Developable Area.** Total site acreage less tidal wetland acreage.

11 **Gross Residential Density.** The number of dwelling units allowed, proposed or existing divided by the
12 total site acreage, excluding areas designated as tidal wetlands.

13 **Growing Season.** The period of consecutive frost-free days as stated in the current soil survey for this
14 county published by the National Cooperative Soil Survey Program, 16 U.S.C. §590 (a)-(f).

15 **Guest Quarters.** One room or rooms connected together, constituting a separate, independent living space
16 for guests of the property owner, and not in the same structure as the property owner's dwelling unit. The
17 Guest Quarters shall not contain independent cooking facilities.

18 **Health Officer.** Deputy State Health Officer of the Maryland Department of Health and Mental Hygiene
19 and Health Officer for St. Mary's County.

20 **Height.** The vertical dimension measured from finished grade to the highest point of the thing being
21 measured.

22 **Highly Erodible Soils.** Those soils with a slope greater than 15 percent; or those soils with a K (erosivity)
23 value greater than 0.35 and on slopes greater than 5 percent.

24 **Historic Resources.**

25 Certificate of Appropriateness. A certificate issued by the Historic Preservation Commission upon
26 review and determination that the proposed alterations are compatible with existing historic
27 resources.

28 Historic Area Work Permit. A permit issued, or to be issued, by the Planning Director, authorizing
29 work on a historic resource within a designated historic district or landmark.

30 Historic District. A historic resource comprised of 2 or more properties which are significant as a
31 cohesive unit and contribute to historical, architectural, archeological, or cultural values, which has
32 been identified by the Historic Preservation Commission and duly classified pursuant to the
33 procedures of Chapter 42. A historic district includes all property within its boundaries, and may
34 overlay any zoning district, imposing regulations and restrictions in addition to the underlying
35 zoning.

36 Historic Landmark. Any individual historic resource that is significant and contributes to historical,
37 architectural, archeological, or cultural values, which has been identified by the Historic Preservation
38 Commission and duly classified pursuant to the procedures of Chapter 42.

39 Historic Resource. An area of land, building, structure, or object, or a group or combination thereof,
40 including appurtenances and environmental setting which may be significant in national, state, or
41 local history, architecture, archeology, or culture.

42 Historic Resources Conservation Plan. A plan containing architectural and design guidelines for a
43 specific historic district. A historic resources conservation plan is required for all historic districts
44 containing 10 or more historic resources.

45 **Historic Waterfowl Staging And Concentration Area.** An area of open water and adjacent marshes
46 where waterfowl gather during migration and throughout the winter season. These areas are historic in the
47 sense that their location is common knowledge and because these areas have been used regularly during
48 recent times.

- 1 **Home Occupation.** An accessory use as a personal service or profession or use customarily conducted
2 within a dwelling carried on by a member of those residing in the dwelling, which does not change the
3 residential character of the dwelling, provided that the use of the dwelling for the home occupation shall be
4 clearly incidental and subordinate to its use for residential purposes by the occupants.
- 5 **House Number.** The five digit coordinate number and street name assigned to any structure or parcel of
6 land.
- 7 **Hydric Soils.** Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby
8 influencing the species composition or growth, or both, on those soils.
- 9 **Immediate family.** A person who is either the applicant's father, mother, son, daughter, grandfather,
10 grandmother, grandson, or granddaughter.
- 11 **Impervious Material.** A material, such as clay, which does not allow the passage of water through it.
- 12 **Impervious Surfaces.** All buildings, road, parking and driveways, paving, patios, decks, sidewalks,
13 stoops, porches, steps, walkways, piers, swimming pools constructed on a lot which reduce the infiltration
14 capacity of the land or result in increased storm water runoff. Wooden decks and walkways (or portions
15 thereof) elevated above finished grade by minimum of the width of the deck and having shrub or ground
16 cover plantings beneath are considered pervious.
- 17 **In-Structure Parking.** Any parking facilities located within a building to serve other uses in that building
18 or on an elevated deck.
- 19 **Industrial Park.** A special or exclusive type of planned industrial area designed and equipped to
20 accommodate a community of industries, providing them with all necessary facilities and services in
21 attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by
22 private developers, community organizations or government organizations.
- 23 **Infiltration.** The passage or movement of water into the soil surface.
- 24 **In-Kind Replacement.** The removal of a structure and the construction of another structure that is smaller
25 than or identical to the original structure in use, footprint area, width, and length.
- 26 **Intensely Developed Area (IDA).** An overlay classification mapped in accordance with Critical Area Law.
27 Originally, these are areas of generally 20 or more contiguous acres, or the entire upland portion of a
28 municipality within the Chesapeake Bay Critical Area (whichever is less) where residential, commercial or
29 institutional land uses predominate and where very little natural habitat occurs.
- 30 **Intermittent Stream.** A stream in which surface water is absent during a part of the year as shown on the
31 most recent 7.5 minute topographic quadrangle map published by the United States Geologic Survey or as
32 modified by presentation of site survey or engineering data that delineates stream presence and location.
- 33 **Intrafamily transfer.** A "bona fide intrafamily transfer" means a transfer to a member of the owner's
34 immediate family of a portion of the owner's property for the purpose of establishing a residence for that
35 family member.
- 36 **Invasive Species.** A type of plant that is non-native to the ecosystem under consideration and whose
37 introduction causes, or is likely to cause, economic or environmental harm or harm to human health.
- 38 **Joint Use Facilities.** Any facilities owned and maintained in common by the inhabitants of the
39 development, including, but not limited to, drives, water systems, sewer systems, parking areas, open
40 space, and developed recreation areas.
- 41 **Junk (or Salvage) Yard.** An open area where waste or scrap materials (including but not limited to scrap
42 iron and other metals, paper, rags, rubber tires, and bottles) are bought, sold, exchanged, stored, baled,
43 packed, disassembled, or handled. A "junk or salvage yard" includes an auto wrecking yard, but does not
44 include uses established entirely within enclosed buildings.
- 45 **K Value.** The soil erodability factor in the Universal Soil Loss Equation. It is a quantitative value that is
46 experimentally determined.
- 47 **Kitchen.** Any room or part of a room which is designed, built, used, or intended to be used for food
48 preparation and dishwashing; but not including a bar, butler's pantry or similar room adjacent to or
49 connected with a kitchen.

- 1 **Land Clearing.** Any activity that removes the vegetative ground cover.
- 2 **Land-Based Aquaculture.** The raising of fish or shellfish in any natural or man-made, enclosed or
3 impounded, water body.
- 4 **Landfills, Sanitary.** Any one of the types of landfills regulated by the Maryland Department of
5 Environment, including but not limited to municipal solid waste, industrial rubble, and land clearing debris
6 landfills.
- 7 **Landscape.** Any combination of trees, ground cover, shrubs, vines, flowers or lawn planted in the ground
8 or in ground level-containers.
- 9 **Landscaping Plan.** A plan, showing dimensions and details for planting in or reforesting an area. A
10 Landscaping Plan may be part of a forest conservation plan.
- 11 **Landscaping, Interior.** A landscaped area or areas within the shortest line defining the perimeter or
12 exterior boundary of the parking or loading area, or similar paved area, excluding driveways or walkways
13 providing access to the facility (as applied to parking and loading facilities or to similar paved areas).
- 14 **Landscaping, Perimeter.** A landscaped area adjoining and outside the shortest line defining the exterior
15 boundary of a parking or loading area, or similar paved area, excluding driveways or walkways providing
16 access to the facility (as applied to parking and loading facilities or to similar paved areas).
- 17 **Level Of Service (LOS).** A measurement of roadway use based upon a specified design capacity. Level of
18 service including the following:
- 19 LOS A represents free flow. Individual users are virtually unaffected by the presence of others in the
20 traffic stream. Freedom to select desired speeds and to maneuver within the traffic stream is
21 extremely high. The general level of comfort and convenience provided to the motorist, passenger, or
22 pedestrian is excellent.
- 23 LOS B is in the range of stable flow, but the presence of other users in the traffic stream begins to be
24 noticeable. Freedom to select desired speeds is relatively unaffected, but there is a slight decline in
25 the freedom to maneuver within the traffic stream from LOS A. The level of comfort and
26 convenience provided is somewhat less than LOS A, because the presence of others in the traffic
27 stream begins to affect individual behavior.
- 28 LOS C is in the range of stable flow, but marks the beginning of the range of flow in which the
29 operation of individual users becomes significantly affected by interactions with others in the traffic
30 stream. The selection of speed is now affected by the presence of others, and maneuvering within the
31 traffic stream requires substantial vigilance on the part of the user. The general level of comfort and
32 convenience declines noticeably at this level.
- 33 LOS D represents high density, but stable flow. Speed and freedom to maneuver are severely
34 restricted, and the driver or pedestrian experiences a generally poor level of comfort and
35 convenience. Small increases in traffic flow will generally cause operational problems at this level.
- 36 LOS E represents operating conditions at or near capacity level. All speeds are reduced to a low but
37 relatively uniform value. Freedom to maneuver within the traffic stream is extremely difficult, and it
38 is generally accomplished by forcing a vehicle or pedestrian to "give way" to accommodate such
39 maneuvers. Comfort and convenience levels are extremely poor, and driver or pedestrian frustration
40 is generally high. Operations at this level are usually unstable because small increases in flow or
41 minor perturbations within the traffic stream will cause breakdowns.
- 42 LOS F is used to define forced or breakdown flow. This condition exists wherever the amount of
43 traffic approaching a point exceeds the amount, which can traverse the point. Queues form behind
44 such locations. Operations within the queue are characterized by stop-and-go waves and are
45 extremely unstable. Vehicles may progress at reasonable speeds several hundred feet or more, then
46 be required to stop in cyclic fashion. LOS-F describes the operating conditions within the queue, as
47 well as the point of the breakdown. It should be noted, however, in many cases operating conditions
48 of vehicles or pedestrians discharged from the queue may be quite good. Nevertheless, it is the point
49 at which arrival flow exceeds discharge flow and causes a queue to form and LOS F is an appropriate
50 designation for such points.

- 1 **Limited Access Highway.** A trafficway including toll roads for through traffic, in respect to which owners
2 or occupants of abutting property or lands and other persons have no legal right of access to or from the
3 same, except at such points only and in such manner as may be determined by the public authority having
4 jurisdiction over such trafficway.
- 5 **Limited Development Area (LDA).** An overlay classification mapped in accordance with Chesapeake
6 Bay Critical Area Law. Generally, these areas are currently developed at a moderate or low intensity.
7 They contain areas of natural plant and animal habitats, and the quality of run-off from these areas has not
8 been substantially altered or polluted.
- 9 **Loading Space or Loading Berth.** A space within the main building or on the same lot which provides for
10 the standing, loading or unloading of trucks or other vehicles.
- 11 **Logo.** A trademark or company name symbol.
- 12 **Lot.** A portion of a subdivision or tract of land having frontage on a street or road which is intended for
13 development and which meets the requirements as a legal building site per this Ordinance.
- 14 **Lot Area, Gross.** The area of a horizontal plane bounded by the front, side, and rear lot lines, but not
15 including any area occupied by the waters of a duly recorded lake or river, or State tidal wetlands.
- 16 **Lot Depth.** The mean horizontal distance between the front lot line and rear lot line of a lot, measured
17 within the lot boundaries.
- 18 **Lot Line Rear.** Any boundary of a lot that is not a front lot line or a side lot line but generally running
19 parallel to opposite of a front lot line.
- 20 **Lot Line, Front.** That boundary of a lot that is along an existing or dedicated public street, or, where no
21 public street exists, is along a public way.
- 22 **Lot Line, Side.** Any boundary of a lot that is not a front lot line or a rear lot line but generally running
23 perpendicular to the front or rear lot lines.
- 24 **Lot Of Record.** A parcel of land which has been legally subdivided and recorded in the Land Records of
25 St. Mary's County, Maryland. A parcel is considered to be legally subdivided if it was created using the
26 following criteria: A) it was created prior to March 15, 1978; B) it was created by subdivision plat
27 approved by the Planning Commission or its administrative personnel; or C) it was an approved deeded
28 division as authorized by the subdivision regulations and approved by the Department of Land Use and
29 Growth Management.
- 30 **Lot Width.** The horizontal distance between the side lot lines of a lot measured at the narrowest width
31 within the first 30 feet of lot depth immediately in back of the front yard setback line.
- 32 **Lot, Corner.** A lot situated at the intersection of two (2) or more streets. On a corner lot, the front lot line
33 is defined as that lot line which contains the narrowest of all public street frontages or where no public
34 street exists, along a private right-of-way. However, for lots abutting any street designated as minor
35 collector or higher in classification, all lot lines abutting such higher order streets shall be deemed front lot
36 lines.
- 37 **Lot, Interior.** A lot other than a corner or reversed corner lot.
- 38 **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the
39 front lot line of the first lot to its rear.
- 40 **Lot, Through.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets,
41 and which is not a corner lot. On a "through lot", both street lines shall be deemed front lot lines.
- 42 **Lot, Zoning.** A single tract of land located within a single block under contiguous ownership that meets the
43 minimum requirements for a permitted use as set forth in ARTICLE 3.
- 44 **Lowest Floor.** The lowest floor of the lowest enclosed area, including basement. An unfinished enclosure
45 constructed of flood resistant materials used solely for parking of vehicles, storage, or building access in an
46 area other than a basement is not the lowest floor, as long as it is supplied with water equalizing vents.
- 47 **Maintenance Agreement (Forest)** The short-term management agreement associated with afforestation or
48 reforestation plans required under Natural Resources Article, §5-1605, Annotated Code of Maryland and
49 this Ordinance.

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- 1 **Manufactured Home.** See Mobile Home.
- 2 **Marina.** A facility for the mooring, docking, or storing of 10 or more vessels on tidal navigable waters,
3 including a commercial, noncommercial, or community facility.
- 4 **Mean High Water Line.** The average level of high tides at a given location.
- 5 **Metropolitan Commission.** The St. Mary's County Metropolitan Commission (METCOM).
- 6 **Micro-brewery.** A facility located in or attached to a restaurant and operated under a Class 7 Micro-
7 brewery License pursuant to Section 2-208 of Article 2B of the Annotated Code of Maryland.
- 8 **Mining.** The act of exploring for or recovering stone, soil, peat, sand, gravel, limestone, coal, granite or
9 other mineral resources from the ground for sale or for use off the property where it is recovered; does not
10 include removal of loose, surface stone, excavation related solely to farm practices or preparation of
11 individual building sites.
- 12 **Mixed Use Development.** A development project, that includes two or more types of uses.
- 13 **Mobile Home Park.** Any site, lot, parcel, or tract of land that is improved, used, or intended for the
14 accommodation of mobile homes that are used for living purposes.
- 15 **Mobile Home Space.** A plot of ground within a mobile home park designed for the accommodation of one
16 mobile home.
- 17 **Mobile Home.** A manufactured structure certified by the US Department of Housing and Urban
18 Development and bearing a HUD label (or if built prior to June 15, 1976, that complies with the Standard
19 for Mobile Homes, NFPA 501, ANSI 119.1).
- 20 **Motel, Motor Court, Motor Hotel, Lodge, or Inn.** The same as hotel, except it is designed to
21 accommodate any number of guests, the building or buildings are designed primarily to serve tourists
22 traveling by automobile, and ingress and egress to rooms need not be through a lobby or office.
- 23 **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, or semi-trailer propelled or drawn by
24 mechanical power.
- 25 **Natural Features.** Components and processes present in or produced by nature, including but not limited
26 to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas,
27 climate, floodplains, aquatic life, and wildlife.
- 28 **Natural Ground Surface.** The ground surface in its original state before grading, stripping, excavation or
29 filling.
- 30 **Natural Heritage Area.** Any communities of plants or animals which are considered to be among the best
31 statewide examples of their kind, and are designated by regulation by the Secretary of the Department of
32 Natural Resources.
- 33 **Natural Regeneration.** The natural establishment of trees and other vegetation with at least 400 woody,
34 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.
- 35 **Natural Vegetation.** Those plant communities that develop in the absence of human activities.
- 36 **Nature-Dominated.** A condition where landforms or biological communities, or both, have developed by
37 natural process in the absence of human intervention.
- 38 **Net Tract Area.** Except in agriculture and resource areas, the net tract area is the total area of a site,
39 including both forested and non-forested areas, to the nearest 1/10 acre, reduced by the area found to be
40 within the boundaries of the 100-year floodplain. In agriculture and resource areas, the part of the total
41 tract for which land use will be changed or will no longer be used for primarily agricultural activities,
42 reduced by the area found to be within the boundaries of the 100-year floodplain.
- 43 **NGVD.** National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic
44 Survey based on mean sea level. Surveys submitted for review and Flood Elevation Certificates are
45 required to be referenced to NGVD.

1 **Noise-Related Terms**

2 Sound Level. The weighted sound pressure level obtained by the use of the sound level meter and
3 frequency weighting network, as specified in the American National Standards Institute
4 specifications.

5 Sound Pressure. The instantaneous difference between the actual pressure and the average or
6 barometric pressure at a given point in space as produced by sound energy.

7 **Nonconforming Structure.** A structure that was lawfully erected but which does not conform with the
8 currently applicable requirements and standards for yard spaces, height of structures, or distances between
9 structures prescribed in the regulations for the district in which the structure is located by reason of
10 adoption or amendment of this Ordinance.

11 **Nonconforming Use.** Any use of land, buildings, or structures, lawfully existing at the time of the
12 enactment of this Ordinance, or of any amendment hereto governing use for the zoning district in which
13 such use is located, which does not comply with all regulations of this Ordinance or amendments.

14 **Nonpoint Source Pollution.** Pollution generated by diffuse land use activities rather than from an
15 identifiable or discrete source or facility. It is conveyed to waterways through natural processes, such as
16 rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source
17 pollution is not generally corrected by "end-of-pipe treatment," but rather, by changes in land management
18 practices.

19 **Non-Renewable Resources.** Resources that are not naturally regenerated.

20 **Nontidal Wetlands.** Those lands in the Critical Area, excluding tidal wetlands regulated under Title 9 of
21 Natural Resources Article, Annotated Code of Maryland, where the water table is usually at or near the
22 surface, or lands where the soil or substrate is covered by shallow water at some time during the growing
23 season. These regulations apply to nontidal wetlands of 1 acre or larger classified Palustrine Aquatic Bed,
24 Palustrine Emergent, Palustrine Forested and Palustrine Scrub-shrub as defined in "Classification of
25 Wetlands and Deepwater Habitats of the United States" (Publication FWS/OBS - 79 / 31, December 1979)
26 and as identified on the National Wetlands Inventory maps, or which may be identified by site survey at the
27 time of application for a development activity to be hydrologically connected, through surface or
28 subsurface flow, to streams, tidal wetlands, or tidal waters, or are determined to be of special importance to
29 fish, wildlife, or plant habitat by the Maryland Natural Heritage Program, the Coastal Resources Division
30 of the Maryland Department of Natural Resources, and the Maryland Forest, Park and Wildlife Service, the
31 county, or other appropriate agencies. These lands are usually characterized by one or both of the
32 following: A) at least periodically, the lands support predominantly hydrophytic vegetation; B) the
33 substrate is predominantly undrained hydric soils.

34 **Noxious Matter.** Material which is capable of causing injury to living organisms by chemical reaction or is
35 capable of causing detrimental effects upon the physical or economic well-being of individuals.

36 **Noxious Plants.** For the purposes of this Ordinance, noxious plants include: poison ivy, poison oak,
37 greenbrier, multiflora rose, kudzu and other plants that cause harm either because they are capable of
38 causing harm to humans and animals by chemical reaction or are non-native invasive species which
39 overwhelm native species and determined undesirable by the county or the state.

40 **Nursery, Commercial and/or Gardening Supplies Sales.** 1) any land used to raise or store trees, shrubs,
41 flowers, and other plants for sale, 2) facilities for the display and sale of those items and/or of gardening
42 supplies, and 3) accessory greenhouses, storage buildings, or customer parking areas.

43 **Occupied.** The word "occupied" includes arranged, designed, built, altered, converted, rented, or leased, or
44 intended to be occupied.

45 **Odorous Matter.** Any matter or material that yields an odor which most persons find to be offensive.

46 **Offsets.** Structures or actions that compensate for undesirable impacts.

47 **Off-street Loading Facilities.** A site or portion of a site located off of a public road devoted to the loading
48 or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped
49 areas.

50 **Off-Street Parking Space.** The space located off of a public road, designed, intended, used or required to
51 park one passenger vehicle.

1 **One Hundred (100) Year Flood.** A flood which has a 1 percent chance of being equaled or exceeded in
2 any given year.

3 **One Hundred Year Floodplain.** An area along or adjacent to a stream or body of water, except tidal
4 waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a
5 100-year flood.

6 **One Hundred Year Frequency Flood.** The Base Flood, having a one chance in a hundred (one percent
7 chance) of being equaled or exceeded in any year.

8 **Open Space Related Terms**

9 Undeveloped Open Space. Land within the tract and outside of the development envelope. To the
10 extent practicable, sensitive areas and their environmental buffers, mapped green infrastructure, and
11 forest conservation easements outside of lot boundaries should be encompassed by required
12 undeveloped open space. The footprint of unpaved hiking trails developed onsite within undeveloped
13 open space are not deducted from the area of required Undeveloped Open Space.

14 Usable Open Space. Outdoor areas within the development envelope open to the sky designed and
15 accessible for outdoor living, pedestrian access, landscaping, or recreation and used by residents or
16 tenants or the general public. Useable open space may include areas on the ground or on the tops of
17 structures (roof, balcony, deck, patio, porch, or terrace) Useable open space does not include street
18 rights-of-way, public or private surface easements, accessory buildings, open parking areas,
19 driveways, access ways for the dwellings, land area utilized for garbage and refuse disposal or other
20 servicing maintenance, or required front or corner side yards. Also, does not include any space with
21 a dimension of less than 10 feet in any direction or an area of less than 100 square feet. "Developed
22 Recreational Open Space" including recreational structures designed to be consistent with the intent
23 of this definition are included in the calculation of the area of required Useable Open Space.

24 Developed Recreational Open Space. Land or structures located within Useable Open Space and
25 developed and dedicated for recreational activities and social or cultural activities/events, including
26 formal or informal playing fields, paved recreational areas, miniparks, tot lots, play areas, and other
27 areas designed and developed to accommodate a variety of recreational activities including but not
28 limited to: fishing piers, waterfront parks, outdoor theatre/concert areas, gazebos, racquet courts,
29 tennis courts, swimming pools, fitness trails, garden plots, playgrounds, and handball courts. The
30 foot print of unpaved trails developed onsite within undeveloped open space may be credited toward
31 the calculation of the area of required Developed Recreational Open Space.

32 **Outlot.** A piece or tract of land that remains within a subdivision but which does not meet the minimum
33 requirements of the Ordinance for a lot and is therefore not useable as a building site.

34 **Outparcel.** A tract of land designated on a subdivision plat for future development, or not designated for
35 any specific purpose, that has not been evaluated for compliance with the requirements of this Ordinance
36 for adequate facilities or zoning requirements and is therefore not useable as a legal building site.

37 Outparcels may be the subject of a record plat or resubdivided provided the lot(s) created meet all
38 requirements of the Ordinance prior to plat approval.

39 **Palustrine.** Nontidal wetlands dominated by trees, shrubs persistent emergent plants, or emergent mosses
40 or lichens and all such wetlands that occur in tidal areas where the salinity due to ocean-derived salts is
41 below one-half part per 1,000 parts of water.

42 **Parcel.** In the context of subdivision platting, a parcel is either a tract of land platted for a designated purpose
43 other than as a legal building site (e.g. to meet the open space requirements of the Ordinance; to provide a well
44 site, to provide a sewerage disposal parcel,) or a tract of land that may meet zoning requirements for area,
45 width, depth, etc., but is not intended for development due to environmental constraints, density restrictions or
46 other legal encumbrances.

47 **Parcel of Land.** A contiguous legally-created lot, parcel, outlot, outparcel or residue owned and recorded
48 as the property of the same persons, or controlled by a single entity.

49 **Parcel of Record.** An individual parcel of land outside the Chesapeake Bay Critical Area (CBCA) recorded
50 separately in the land records of St. Mary's County, Maryland as of March 15, 1978, or an individual parcel
51 of land within the CBCA recorded separately in the land records of St. Mary's County, Maryland as of

- 1 December 1, 1985. Only county or state road rights-of-way that existed on March 15, 1978, shall be
2 considered parcels dividers which divide a parcel into two (2) or more parcels of record.
- 3 **Perennial Stream.** A stream containing surface water throughout an average rainfall year, as shown on the
4 most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey or as
5 modified by presentation of site survey or engineering data that delineates stream presence and location.
- 6 **Permit, Environmental.** A permit issued, or to be issued, by the County after approval by the
7 Environmental Planner, authorizing work of any type in resource protection areas, sensitive areas, the
8 Critical Area and tidal waters.
- 9 **Person.** The federal government, the State, a county, municipal corporation, or other political subdivision
10 of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator,
11 fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation,
12 or any of their affiliates, or any other entity.
- 13 **Phased Project.** A project developed pursuant to a subdivision or site plan, proposed to be developed in
14 sections.
- 15 **Physiographic Features.** The soils, topography, land slope and aspect, and local climate that influence the
16 form and species composition of plant communities.
- 17 **Pier.** Any fixed or floating pier, wharf, dock, walkway, or other similar water dependent structure
18 constructed on or over State or private tidal wetlands for the purpose of gaining access to the navigable
19 waters of the State.
- 20 **Planned Development or Planned Unit Development.** A parcel of land or contiguous parcels of land of a
21 size sufficient to create its own environment, controlled by a single landowner or by a group of landowners
22 in common agreement as to control, to be developed as a single entity, the environment of which is
23 compatible with adjacent parcels and the intent of the zoning district or districts in which it is located; the
24 developer or developers may be granted relief from specific land use regulations and design standards, and
25 may be awarded certain premiums in return for assurance of any overall quality of development, including
26 any special feature which will be of exceptional benefit to the community as a whole and which would not
27 otherwise be required by this Ordinance.
- 28 **Planning Director.** The Director of the St. Mary's County Department of Land Use and Growth
29 Management or his designee.
- 30 **Plat.** As used in this Ordinance, plat shall be a map of a tract of land showing boundaries of individual
31 properties and streets, easements and rights-of-way prepared in accordance with this Ordinance as an
32 instrument for recording of real estate interests with the County Clerk and Recorder.
- 33 **Port.** A facility or area established or designated by the state or local jurisdictions for purposes of water-
34 borne commerce.
- 35 **Preexisting.** In existence prior to the effective date of a specific regulation or Ordinance.
- 36 **Premises.** A zoning lot, together with all buildings and structures thereon.
- 37 **Prime Agricultural Soils.** Soils in this category include the following: Caroline silt loam (CaB2),
38 Chillum loam (ChA and ChBs), Faceville loam (FsB), Marr fine sandy loam (MaB2), Matapeake fine
39 sandy loam (MmA, MmB2), Matapeake silt loam (MnA, MnB2), Sassafrass sandy loam (SaA, SaB2),
40 Sassafrass loam (SfA, SfB2), Westphalia fine sandy loam (WeB2), and Woodstown sandy loam (WsA,
41 WsB).
- 42 **Principal Use.** A main or primary use of land, as distinguished from an "accessory use". More than one
43 principal use may exist on a tract if done so completely in accordance with this Ordinance.
- 44 **Priority Funding Areas.** Areas mapped by the County based on land use, water and sewer service, and
45 residential density in accordance with the "Smart Growth Areas" Act of 1997, Chapter 759 of the Laws of
46 Maryland of 1997. The Smart Growth Areas are designated as "Priority Finding Areas" which are eligible
47 areas for State funding for state programs and funding which encourages or support growth and
48 development.
- 49 **Private Harvesting.** The cutting and removal of trees for personal use, generally restricted to clearing of
50 fewer than 10 trees on a site.

- 1 **Private Pier.** A pier or dock that is associated with a single-family home, has berths for no more than 4
2 boats, and has no commercial activity occurring on site.
- 3 **Private Road.** A private access, drive or lane to more than one residence which is contained within the lot
4 or parcel and which is not dedicated to the County.
- 5 **Project Approval.** The approval of development, other than development by a state or local government
6 agency, in the Critical Area by the appropriate local approval authority. The term includes approval of
7 subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, and
8 conditional use permits; and issuance of zoning permits. The term does not include approval of building
9 permits.
- 10 **Project.** Any proposal for new or changed use, or for new construction, alteration, or enlargement of any
11 structure, that is subject to the provisions of this chapter.
- 12 **Property Lines.** The lines bounding a zoning lot, as defined herein.
- 2/20/14 13 **Pub-brewery.** A facility located in or attached to a restaurant and operated under a Class 6 Pub-brewery
14 License pursuant to Section 2-207 or Article 2b of the Annotated Code of Maryland.
- 15 **Public right-of-way.** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is
16 owned or controlled by a governmental entity.
- 17 **Public Sewerage System** Any system for the collection, transportation, and disposal of sewage or
18 industrial wastes of a liquid nature, including various devices for the treatment of such sewage and
19 industrial wastes as defined by the Comprehensive Water and Sewerage Plan that serves two or more
20 individual lots, dwelling units, businesses, commercial or industrial establishments, and is owned or
21 operated by an incorporated municipality, St. Mary's County Metropolitan Commission, or an agency of
22 St. Mary's County, the State of Maryland, or the Federal Government.
- 23 **Public Utility.** Any transmission line or electric generating station; or water, sewer, electric, gas,
24 telephone, and television or data cable service line.
- 25 **Public Water - Oriented Recreation.** Shore-dependent recreation facilities or activities provided by
26 public agencies which are available to the general public.
- 27 **Public Water Supply System.** A source of water supply and distribution system that includes treatment
28 and storage facilities, serves two (2) or more individually owned lots, dwelling units, businesses,
29 commercial or industrial establishment, and is owned and/or operated by an incorporated municipality, St.
30 Mary's County Metropolitan Commission, or an agency of St. Mary's County, the State of Maryland, or the
31 Federal Government.
- 32 **Public Way.** Any sidewalk, street, alley, highway, or other public thoroughfare.
- 33 **Receiving Parcel.** A lot or parcel of land in a zoning district where permitted, on which development rights
34 transferred from a sending parcel are used.
- 35 **Reclamation.** The reasonable rehabilitation of disturbed land for useful purposes, and the protection of the
36 natural resources of adjacent areas, including water bodies.
- 37 **Recreational Vehicle.** A vehicle built on a single chassis that is 400 square feet or less at the longest
38 horizontal projection, self propelled or towable, and designed primarily for temporary living while traveling
39 or camping.
- 40 **Recycling Centers.** An enclosed building where recyclable materials separated from other waste materials,
41 including, but not limited to, scrap metals, paper, textiles, glass, and plastics, are received for the purpose
42 of processing for upgrading, particle size reduction, volume reduction, removal of undesired materials,
43 baling, packing, disassembly, handling, or storage. Although storage containers may be located outdoors
44 within the property, all handling and processing occurs within the enclosed building. Conversion of
45 materials to a final manufactured product is prohibited.
- 46 **Redevelopment.** The process of developing land which is or has been developed.
- 47 **Reforestation or Reforested.** Outside the Critical Area, reforestation means the establishment of a forest
48 according to procedures set forth in the Forest Conservation Technical Manual through artificial
49 reproduction or natural regeneration that creates a biological community dominated by trees and other
50 woody plants containing at least 100 live trees per acre with at least 50 percent of those trees having the

1 potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground, within 7 years.
2 Reforestation or reforested also includes landscaping of areas under an approved landscaping plan
3 establishing a forest at least 35 feet wide and covering 2500 square feet or more of area. In the Critical
4 Area, reforestation means replacement of trees and vegetation cleared in the Critical Area on a not less than
5 equal area basis.

6 **Renewable Resource.** A resource that can renew or replace itself and, therefore, with proper management,
7 can be harvested indefinitely.

8 **Residential Structure Types.**

9 Apartment Building. A type of multi-family dwelling with a common entrance and common
10 amenities, such as garages, yards, and utilities.

11 Dwelling Attached. A dwelling that is joined to another dwelling at one or more sides by a party wall
12 or walls.

13 Condominium. A type of ownership arrangement in which an owner has legal title over a single unit
14 in a multi-family dwelling or non-residential development and over an equal portion of the land upon
15 which the structure stands. A condominium is not a type of structure per se, but rather a form of
16 ownership.

17 Detached Dwelling. A dwelling that is entirely surrounded by open space on the same lot.

18 Dwelling Unit. One room, or rooms connected together, constituting a separate, independent
19 housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer
20 basis, and physically separated from any other rooms or dwelling units which may be in the same
21 structure, and containing independent cooking and sleeping facilities. This definition does not
22 include hotels, motels, or similar uses.

23 Efficiency Unit. A dwelling unit consisting of 1 principal room exclusive of bathroom, kitchen,
24 hallway, closets, or dining alcove directly off the Principal room providing such dining alcove does
25 not exceed 125 sq. ft. in area.

26 Garden Apartment. A type of multi-family housing. Dwelling units share a common outside access.
27 Ownership is not a factor in this type of unit, and may be either rental or condominium.

28 Manufactured Home. A manufactured structure for residential occupancy, lacking attached wheels,
29 but transportable in one or more sections and conforms to all applicable safety and construction
30 standards.

31 **Residue.** An obsolete term used on subdivision plats prior to March 1, 1994 to identify land that has not
32 been platted as a lot of record. However, given approval for access, water supply, sewage disposal and
33 environmental zoning permits, a "residue" may be used as a legal building site. A residue may be the
34 subject of a record plat to create additional building lots or be resubdivided provided the lot(s) created meet
35 all requirements of the Ordinance prior to plat approval.

36 **Resource Conservation Area (RCA).** An overlay classification mapped in accordance with Critical Area
37 Law. Generally, these areas are characterized by nature-dominated environments, such as wetlands and
38 forests or resource utilization activities such as agriculture, forestry, fisheries activities and aquaculture.

39 **Resource Protection Areas.** Those areas shown on the site analysis to be wetlands, floodplains,
40 drainageways, mature woodlands, steep slopes, soils classified as hydric or erosion hazard areas.

41 **Riparian Habitat.** A habitat that is strongly influenced by water and which occurs adjacent to streams,
42 shorelines, and wetlands.

43 **Roadside Stand.** A permanent structure used for the display and sale of locally produced agricultural and
44 fishery products.

45 **Roadside Tree.** Any tree or shrub (plant that has a woody stem or trunk) that grows all, or in part, within
46 the right-of-way of a public road. The right-of-way of a public road is defined as that land the title to
47 which, or an easement for which, is held by the State, county, or a municipality for use as a public road.
48 Right-of-ways of a public road that has not been surfaced with stone, shell, concrete, brick, asphalt, or other
49 improved surface material is exempt.

- 1 **Rubbish.** Any combustible or noncombustible waste materials, except garbage, including but not restricted
2 to paper, rags, boxes, cartons, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans,
3 metals, mineral matter, glass, crockery, dust, and the residue from the burning of combustible materials.
- 4 **SCD.** St. Mary's County Soil Conservation District .
- 5 **Scrolling.** Any movement of text, pictures, or graphics, horizontally, vertically, or diagonally.
- 6 **Seasonally Flooded Water Regime.** A condition where surface water is present for extended periods,
7 especially early in the growing season, and when surface water is absent, the water table is often near the
8 land surface.
- 9 **Sediment Control Permit.** The authorization of an activity regulated under a sediment control plan as
10 provided in the Environment Article, Title 4, Annotated Code of Maryland.
- 11 **Sediment.** Soils or other materials transported by wind or surface water as a product of erosion.
- 12 **Seedling.** An unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2
13 inch measured at 2 inches above the root collar.
- 14 **Selection.** The removal of single, scattered, mature trees or other trees from uneven-aged stands by
15 frequent and periodic cutting operations.
- 16 **Selective Clearing.** The careful and planned removal of trees, shrubs, and plants using specific standards
17 and protection measures under an approved forest conservation plan.
- 18 **Sensitive Areas.** Tributary streams and their buffers, nontidal wetlands, Wetlands of Special State
19 Concern and their Buffers, floodplains, floodways, coastal high hazard areas, hydric soils, soils with hydric
20 inclusions, highly erodible soils, the Chesapeake Bay Critical Area, Habitat Protection Areas, Natural
21 Heritage Areas, and forest and woodland cover.
- 22 **SHA.** Maryland State Highway Administration.
- 23 **Shared Facilities.** A water or sewerage system which serves more than one lot of land or more than one
24 user on a single lot of land with water or sewerage systems located on the individual lots or on parcels
25 owned in common by the users.
- 26 **Shimmer.** To shine with a flickering light; to glimmer.
- 27 **Shopping Center.** A grouping of retail business and service uses on a single site with common parking
28 facilities.
- 29 **Shoreline Erosion Hazard Area.** Any shoreline that has a historical shoreline erosion of 4 to 8 feet or
30 greater according to the Atlas of Historic Erosion Rates in Maryland, (1965, Coastal Resources Division,
31 Tidewater Administration).
- 32 **Sign, Advertising.** A sign that directs attention to a business, commodity, service institution or activity, or
33 entertainment not exclusively related to the premises where such sign is located or to which it is affixed.
- 34 **Sign, Building.** Any sign attached to any part of a building, as contrasted to a freestanding sign.
- 35 **Sign, Business.** A sign that directs attention to a business, commodity, service, or other activity conducted
36 upon the premises upon which such sign is located.
- 37 **Sign, Canopy.** A sign painted, stamped, perforated, or stitched, or otherwise applied on the valance of an
38 awning. [An illuminated architectural canopy sign (backlit awning) is an enclosed, illuminated structure
39 that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with
40 the message integrated into its face.]
- 41 **Sign, Commercial Message.** Any sign wording, logo, or other representation that, directly or indirectly,
42 names, advertises, or calls attention to a business, product, service, or other commercial activity.
- 43 **Sign, Directional or Information.** A sign designating the location of a community or an institution of a
44 public, or quasi-public nature, or a temporary event of public interest, but not including signs pertaining to
45 real estate.
- 46 **Sign, Flashing.** Any illuminated sign on which the artificial light is not maintained stationary or constant in
47 intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any moving,
48 illuminated sign shall be considered a "flashing sign".

- 1 **Sign, Freestanding.** Any sign supported by structures or supports that are placed on, or anchored in, the
2 ground and that are independent from any building or other structure.
- 3 **Sign, Gross Area of.** The entire area within a single continuous perimeter enclosing the extreme limits of
4 such sign and in no case passing through or between any adjacent elements of same. However, such
5 perimeter shall not include any structural elements lying outside the limits of such sign and not forming an
6 integral part of the display.
- 7 **Sign, On Premises.** A sign located on the premises to which its message pertains.
- 8 **Sign, Outdoor Advertising.** A sign which directs attention to a business, commodity, service, entertain-
9 ment, or other activity conducted, sold or offered elsewhere than on the premises upon which such a sign is
10 located.
- 11 **Sign, Portable or Mobile.** Any sign not permanently attached to the ground or other permanent structure,
12 or a sign designed to be transported, including, but not limited to, signs designed to be transported by
13 means of wheels, signs converted to A- or T-frames; menu and sandwich board signs; balloons used as
14 signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from
15 the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- 16 **Sign, Temporary and Miscellaneous.** Signs as described in Section 65.2.4 are excluded from this
17 definition.
- 18 **Sign.** Any structure, part thereof, or device attached thereto or painted or represented thereon or any
19 material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model,
20 emblem, insignia, device, trademark or other representation used as or in the nature of an announcement,
21 advertisement, direction, or designation of any person, firm, group, organization, place, commodity,
22 product, service, business, profession, enterprise, or industry which is located upon any land, or any
23 building, or upon a window or indoors in such a manner as to attract attention from outside the building.
24 The flag, or emblem of any political unit, educational, charitable, religious, or similar group, or non-profit
25 event shall not be included within the meaning of this definition.
- 26 Abandoned Sign. An on-premise or off-premise sign that advertises an activity, business, product, or
27 service no longer conducted or available on the premises on which the sign is located or on the
28 premises referred to in the off-premise business sign. A temporary sign is deemed to be abandoned
29 when the sign has not been removed within 30 days after the event has taken place.
- 30 Area of Sign. The area included within the outer dimensions of a sign. For signs without a border or
31 frame (channel or skeleton letters), the area shall be within a rectangle formed around the extreme
32 outer limits of the sign message, including all figures and any background or color which is an
33 integral part of the sign.
- 34 Banner. A sign made of flexible materials, suspended from one or two corners, including a design or
35 logo.
- 36 Building Sign. A sign painted on or affixed to a building face, parallel to and not extending more
37 than 12 inches from the surface.
- 38 Channel Type Letters. Individual letters or figures, illuminated or unilluminated, affixed to a building
39 or freestanding sign structure.
- 40 Construction Sign. A temporary sign identifying the persons, firms or businesses directly connected
41 with a construction or development project.
- 42 Directional Sign. Any sign erected for the sole purpose of providing direction to the general public.
43 Directional signs include but are not limited to signs that: denote the route to any city, community
44 facility, historic place, or hospital; signs directing and regulating traffic; signs directing visitors to
45 tourist-oriented business; notices of any utility or transmission company necessary for the direction
46 or safety of the public; and signs, notices or symbols as to the time and place of civic meetings.
- 47 Off-premise Sign (also "off-site"). A sign that, at any time, carries any advertisement identification,
48 or directions not strictly related to the lawful use of the premises upon which it is located.
- 49 Pennant or Streamer. A sign made of flexible materials suspended from one or two corners, used in
50 combination with other pennants and streamers to create the impression of a line.

- 1 Permanent Sign. A sign for which a sign permit is approved and issued with no time restriction.
- 2 Political Sign. Any sign which is designed to influence the action of the voters either for the passage
3 or defeat of a measure appearing on the ballot or any national, state or local election, or which is
4 designed to influence the action of the voters either for the election or defeat of a candidate for
5 nomination or election to any office, whether public or private, partisan or non-partisan, at any
6 national, state or local election.
- 7 Projecting Sign. A sign affixed to the face of a building and projecting more than 12 inches either
8 perpendicularly or at an angle from the surface.
- 9 Real Estate Sign. Any temporary sign pertaining to the sale, exchange, lease or rental of land or
10 buildings.
- 11 Wall Sign. Any sign posted, or painted or suspended from or otherwise affixed to the wall of any
12 building or structure in an essentially flat position, or with the exposed face of the sign in a place
13 approximately parallel to the place of such a wall.
- 14 **Significantly Eroding Areas.** Areas that erode 2 feet or more per year.
- 15 **Site.** Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one
16 ownership, or are contiguous and in diverse ownership where development is to be performed as part of a
17 unit, subdivision, or project as shown on an application.
- 18 **Small Wind Energy System.** A single-tower wind energy conversion system that is used to generate
19 electricity; has a rated capacity (as defined by the manufacturer) of 100 kilowatts (kW) or less; has a total
20 height of 85 feet or less, if located on a lot or parcel less than one acre in size; or a total height of 150 feet
21 or less, if located on a lot or parcel one acre in size or greater, including the tower and blades; and consists
22 of a wind turbine, tower, base and associated control or conversion electronics.
- 23 **Small Wind Energy System Tower:** A monopole, lattice, or guy-wired structure that supports a wind
24 generator.
- 25 **Soil Conservation and Water Quality Plans.** Land-use plans for farms that show farmers how to make
26 the best possible use of their soil and water resources while protecting and conserving those resources for
27 the future. It is a document containing a map and related plans that indicate: A) how the landowner plans to
28 treat a farm unit; B) which best management practices the landowner plans to install to treat undesirable
29 conditions; and C) the schedule for applying those best management practices.
- 30 **Species in Need of Conservation.** Those fish and wildlife whose continued existence as part of the state's
31 resources are in question and which may be designated by regulation by the Secretary of Natural Resources
32 as in need of conservation pursuant to the requirements of Natural Resources Article, §10-2A-06 and
33 §4-2A-03, Annotated Code of Maryland.
- 34 **Spoil Pile.** The overburden and reject materials as piled or deposited during surface mining.
- 35 **Stabilization.** The prevention by any of various vegetative and/or structural means of soil movement.
- 36 **Stable, Commercial.** Any stable for the housing of horses or mules, operated for remuneration, hire, sale,
37 or stabling, or any stable, not related to the ordinary operation of a farm.
- 38 **Stable, Private.** An accessory building, not related to the ordinary operation of a farm, for the housing of
39 horses or mules owned by a person or persons living on the premises and which horses or mules are not for
40 hire or sale.
- 41 **Start of Construction.** The date of issue of the building permit for any development, including new
42 construction and substantial improvements, provided that the actual start of the construction or
43 improvement was within 365 days of permit issuance. The actual start of construction is the placement of
44 slab or footings, piles, columns, or actual placement of a manufactured home. For substantial improvement,
45 the start of construction is the first alteration of any structural part of the building.
- 46 **Static.** A display that is fixed in one position with no motion of the display being in motion or changing in
47 color or light intensity.
- 48 **Steep Slope.** A slope of over fifteen percent (15%) grade or greater incline, which is characterized by
49 increased runoff, erosion and sediment hazards for slopes exceeding Class B soil capability as defined by
50 the Soil Conservation Service Field Office Technical Guide.

1 **Stormwater Management.** For quantitative control, a system of vegetative and structural measures that
2 control the increased volume and rate of surface runoff caused by man-made changes to the land; and for
3 qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants
4 that might otherwise be carried by surface runoff.

5 **Story.** Part of a building between any floor and the floor next above, and if there be no floor above, then
6 the ceiling above. A basement is a story if its ceiling is five (5) feet or more above the level from which the
7 height of the building is measured, or if it is used for business purposes, or if it contains any dwelling units
8 other than one (1) dwelling unit for the caretaker of the premises.

9 **Stream Buffer.** All lands lying within a measured distance from the top of each normal bank of a perennial
10 or intermittent stream, intended to protect the stream, its water quality and habitat.

11 **Street.** A public or private right-of-way which affords a primary means of vehicular access to abutting
12 property, whether designated as a street, avenue, highway, road, boulevard, lane throughway, or however
13 otherwise designated, but does not include driveways to buildings.

14 **Structure.** Anything constructed or erected, other than a fence or retaining wall, which requires location on
15 the ground or if attached to something having a location on the ground, including but not limited to
16 advertising boards, posterboards, mobile homes, manufactured homes, gas and liquid storage tanks,
17 garages, barns, and sheds.

18 **Structured Parking.** A structure, the principal purpose of which is the short-term parking of vehicles to
19 serve an adjacent use.

12/18/12 20 **Subdivision, Farmstead.** Subdivisions in which all lots are fifteen (15) acres or larger.

12/18/12 21 **Subdivision, Major.** Any subdivision containing eight (8) lots or more.

12/18/12 22 **Subdivision, Minor.** The division of a parcel or lot of record which creates one (1) to seven (7) lots.

23 **Subdivision.** Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plats,
24 sites, or other division of land for the purpose, whether immediate or future, of sale or of building
25 development provided that this definition of a subdivision shall not include a bona fide division or partition
26 of agricultural land not for development purposes.

27 **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the
28 structure to its before damaged condition would equal or exceed 50% of the market value of the structure
29 before the damage occurred.

30 **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which
31 equals or exceeds 50% of the market value of the structure (less land value) either: (a) before the
32 improvement or repair is started; or (b) if the structure has incurred substantial damage and been restored,
33 before the damage occurred. Substantial improvement occurs when the first alteration of any wall, ceiling,
34 floor, or other -structural part of the building commences. The minimum repairs needed to correct
35 previously identified violations of local health, safety, or sanitary codes, and alterations to historic
36 structures which do not preclude their continued designation as historic structures are not considered
37 substantial improvements.

07/07/14 38 **Swimming Pool.** Any structure intended for swimming or recreational bathing that contains water over
39 24 inches (610 mm) deep. This includes in-ground swimming pools and above-ground and on-ground
40 hot tubs and spas.

41 **Tidal Floodplains.** Consist of areas subject to coastal or tidal flooding by the 100-year flood. These areas
42 are flooded due to high tides, hurricanes, tropical storms, and steady on-shore winds.

43 **Tidally-Influenced Non-Tidal Wetlands.** All state and private non-tidal wetlands that are influenced and
44 affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries.
45 Tidally-influenced non-tidal wetlands are adjacent to tidal wetlands.

46 **Tidal Wetlands.** All state and private wetlands, marshes, submerged aquatic vegetation, lands and open
47 water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its
48 tributaries. Tidal wetland boundaries are as officially mapped and adopted by the Department of Natural
49 Resources.

1 **Tidal Wetland, Private.** A tidal wetland, the ownership of which is demonstrated by providing proof of
2 continuous chain of title that demonstrates conveyance by patent prior to 1862, transferred by the State by a
3 valid lease patent or grant confirmed by Article 5 of the Maryland Declaration of rights, or tidal waters
4 created by the excavation of upland unless conveyed to the state.

5 **Tidal Wetland, State.** A tidal wetland, the ownership of which was not conveyed by patent prior to 1862
6 and which has not been transferred by the State by a valid lease patent or grant confirmed by article 5 of the
7 Maryland Declaration of rights.

8 **Topography.** The existing configuration of the earth's surface including the relative relief, elevation, and
9 position of land features.

10 **Townhouse.** One of a group of attached, single-family dwellings that are designed as single structures,
11 with each dwelling unit separated by firewalls, fire separations, or similar party wall. No more than two (2)
12 dwellings units shall be contained within said separation.

13 **Transfer of Development Rights Terms**

14 Transfer. A transfer of development rights from a transferor parcel to a receiving parcel by
15 instrument(s) of transfer.

16 Transferee. A person to whom development rights are transferred and all persons who have any lien,
17 security interest or other interest with respect to development rights held by the transferee.

18 Transferor. A person who transfers development rights and all persons who have any lien, security
19 interest or other interest with respect to development rights held by a transferor.

20 Transferor Parcel. A parcel of land in a RPD Rural Preservation zoning district from which
21 development rights may be transferred. A transferor parcel may be less than all of a lot owned by an
22 original transferor.

23 **Transfer Station** (or see also "Waste Disposal Services"). An outdoor facility or enclosed building that
24 receives municipal solid waste and/or rubble from collection vehicles and reloads the materials into trailers
25 or other containers for the purpose of transporting it to a processing or final disposal facility.

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

28 **Transportation Facilities.** Anything that is built, installed, or established to provide a means of transport
29 from one place to another.

30 **Transportation-Related Terms**

31 Alley. A narrow roadway for access to an area of commercial, multi-family or industrial structures.

32 Arterial. A interregional road conveying traffic between growth areas. Efficient movement is the
33 primary function of arterial roads, hence private access and frontage should be controlled and limited
34 to high-volume generators of vehicle trips.

35 Major Collector. A principal traffic artery within residential areas that may provide routes to local
36 facilities, serves as the main entrance to a sizeable development, or a combination of developments.

37 Minor Collector. A street which, in addition to providing access to properties abutting thereon, carries
38 traffic to an activity center or higher classification street. It may be a loop street or may link local
39 and/or collector streets.

40 Street Direction. The direction any street or road travels the longest in distance (i.e. north-south or
41 east-west).

42 **Tree.** A branched woody plant having one or several self-supporting stems or trunks that reaches a height
43 of at least 20 feet at maturity. Seedlings, whips, and immature trees, which are part of successional forests,
44 are provided the same protection as mature trees. For purposes of afforestation and reforestation, a six foot
45 tall, one and one half inch caliper tree provides mitigation equivalent to four hundred square feet.

46 **Tributary Streams.** Those perennial and intermittent streams in the Critical Area which are so noted on
47 the most recent U.S. Geological Survey 7 1/2 minute topographic quadrangle maps scale 1:24,000) or on
48 more detailed maps or studies at the discretion of the local jurisdictions.

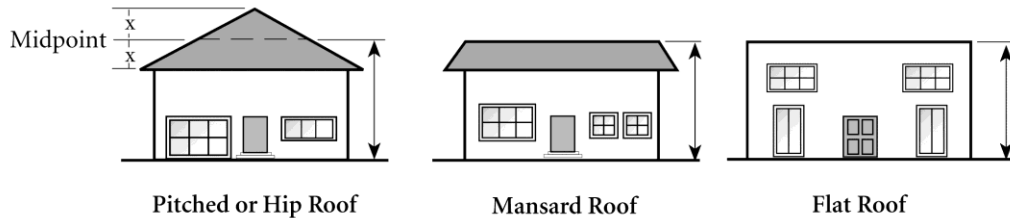
- 1 **Understory Tree.** A tree that, when mature, reaches a height of twelve to thirty five feet.
- 2 **Use of Property.** The purpose or activity for which the land or building thereon is designed, arranged or
3 intended, or for which it is occupied or maintained.
- 4 **Utility.** A public corporation, company or special district organized to provide a service to the subdivision.
5 As used herein, "utility" shall include, but not be limited to, electric, gas or telephone companies and water
6 and sanitation districts.
- 7 **Variance.** A modification only of density, bulk, or area requirements of this Ordinance where such
8 modification will not be contrary to the public interest and where owing to conditions peculiar to the
9 property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance
10 would result in unnecessary hardship in the Chesapeake Bay Critical Area or practical difficulty in other
11 areas of the County.
- 12 **Vehicle.** Every device, including major parts thereof, in, on, or by which any person or property is or may
13 be transported or drawn on a thoroughfare, except devices moved by human or animal power, or devices
14 used exclusively on stationary rails or tracks.
- 15 **Vested Right.** A right, consistent with Maryland law vested in and flowing from an existing zoning use and
16 protected against a subsequent change in the zoning Ordinance or subdivision regulations prohibiting or
17 limiting that use, for which the owner has (1) obtained a building permit or occupancy certificate where
18 required by the applicable Ordinance; and (2) commenced work under that permit or certificate to exercise
19 it on the land involved so that the neighborhood may be advised that the land is being developed for that
20 use. (VR)
- 21 **Veterinary Hospital.** A facility for the medical examination and treatment of animals, licensed by State of
22 Maryland.
- 23 **Visible.** Capable of being seen (whether or not legible) by a person of normal height and visual acuity
24 walking or driving on a public road.
- 25 **Wash Plant.** A facility where sand and gravel is washed during processing.
- 26 **Waste.** Ashes, discarded wood, abandoned, discarded, or unused objects or equipment such as furniture,
27 appliances, cans, or containers; garbage or refuse of any kind, whether liquid or solid; or any accumulation
28 of any foul, decaying, or putrescent substances.
- 29 **Water-Based Aquaculture.** The raising of fish and shellfish in any natural, open, free-flowing water body.
- 30 **Watercourse.** Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain,
31 waterway, gully, ravine or wash, in and including any area adjacent thereto which is subject to inundation
32 by reason of overflow or flood water.
- 33 **Water Dependent Facilities.** Those structures or works associated with industrial, maritime, recreational,
34 educational or fisheries activities that require location at or near the shoreline. An activity is water-
35 dependent if it cannot exist outside the critical area buffer and is dependent on the water by reason of the
36 intrinsic nature of its operation. These activities include, but are not limited to, ports, the intake and outfall
37 structures of power plants, water-use industries, marinas and other boat docking structures, public beaches
38 and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are
39 individual private piers installed or maintained by riparian landowners, and which are not part of a
40 subdivision which provides community piers.
- 41 **Waterfowl.** Birds that frequent and often swim in water, nest and raise their young near water, and derive
42 at least part of their food from aquatic plants and animals.
- 43 **Watershed.** All land lying within an area which drains into a river, river system or other water course.
- 44 **Wetland.** Any land which is: (1) considered private tidal wetland or State tidal wetland pursuant to Title 9,
45 Wetland and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (2) defined as
46 wetland under the procedures described in the "Federal Manual for Identifying and Delineating
47 Jurisdictional Wetlands" by the Federal Interagency Committee for Wetland Delineation, as amended.
- 48 **Whip.** An unbranched woody plant greater than 24 inches in height and having a diameter of less than 1
49 inch measured at 2 inches above the root collar.

- 1 **Wildlife Corridor.** A strip of land having vegetation that provides habitat and a safe passageway for
2 wildlife.
- 3 **Wind Energy System.** A wind energy system is the equipment that converts and then stores or transfers
4 energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation,
5 generator, nacelle (enclosure housing the engine), rotor, tower, transformer, vane, wire, inverter, batteries,
6 guy wire, or other component used in the system.
- 7 **Wind Generator.** A wind generator consists of the blades and associated mechanical and electrical
8 conversion components mounted on top of the tower.
- 9 **Winery.** A facility for processing and fermenting grapes and other fruits into wine; includes the bottling,
10 aging, storing, and shipping of wine. May include an area or separate facilities for incidental administrative
11 office functions, incidental retail sales of wine and related promotional items, wine tasting events,
12 promotional events incidental to the winery, and a kitchen facility for preparing and serving food at
13 permitted events. Promotional events may include wedding receptions, private parties, and other similar
14 events.
- 15 **Yard.** A required open space on a zoning lot within a building or structure may occupy or obstruct the
16 space from its lowest level to the sky, except as otherwise permitted in this Ordinance. A "yard" extends
17 along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which
18 such zoning lot is located. Also, the area between the lot line and the building setback line.
- 19 Corner side yard. A side yard on the street side of a corner lot.
- 20 Front Yard. A yard extending along the full length of the front lot line of the zoning lot.
- 21 Rear Yard. A yard extending along the full length of the rear lot line of the zoning lot.
- 22 Side Yard. A yard extending along a side lot line measured from the front yard to the rear yard.
- 23 Side Yard, Corner. A side yard which adjoins a public street
- 24 Side Yard, Interior. A side yard that is located immediately adjacent to another zoning lot or to an
25 alley separating such yard from another zoning lot.
- 26 Transitional Yard. That yard which must be provided on a zoning lot in a commercial zoning district
27 which adjoins a zoning lot in a residential zoning district, or that yard which must be provided on a
28 zoning lot in either a residential or commercial zoning district.
- 29 **Yard Sale.** A sale, open to the public, conducted from a residence for the occupant's purpose of disposing
30 of unwanted items from the household.
- 31 **Zoning Overlay District.** A special district that is placed over the base zoning which imposes additional
32 restrictions which, where they are more stringent than the base zone, prevail.
- 33 **Zoning Floating Zone.** A district that is fixed on the base zoning only upon Board of County
34 Commissioners approval of a specific development application meeting the requirement of this Ordinance.
- 35 **Zoning Permit.** A written statement or certificate issued by the Planning Director authorizing buildings,
36 structures, or uses in accordance with the provisions of this Ordinance.

1 **CHAPTER 91 RULES FOR MEASUREMENT**

2 **Build-to Line.** The build-to line shall be measured from an exterior wall to the property line such that the accuracy
3 of the building placement shall be within a foot, as authorized.

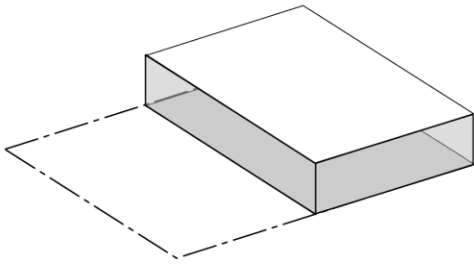
4 **Building Height.** The building height shall be measured from finished grade to the highest point on a flat roof or a
5 mansard or the midpoint between the cornice and the eave on a pitched roof.



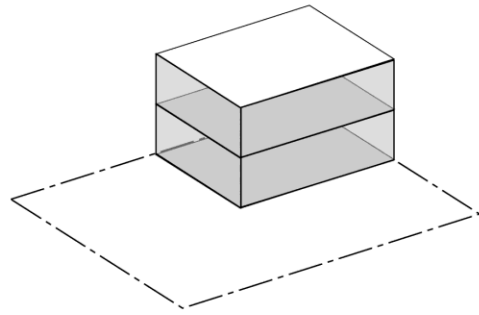
MEASURING HEIGHT - ROOF TYPES

6
7 **Density, Residential.** The number of dwelling units divided by the gross area of the lot area reflected as a number
8 of units per acre.

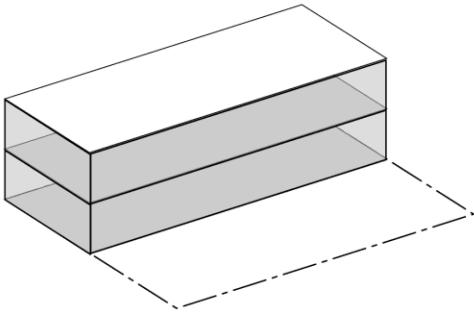
9 **Floor Area Ratio (FAR).** The gross floor area of the building or buildings on a zoning lot divided by the total area
10 of such zoning lot. The "floor area ratio" requirements, as set forth under each zoning district, shall determine the
11 maximum floor area allowable for the building or buildings (total floor area of both principal and accessory
12 buildings) in direct ratio to the gross area of the zoning lot.



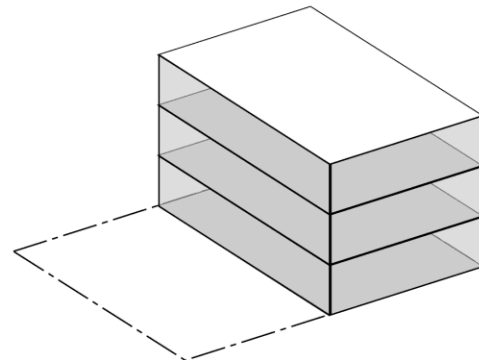
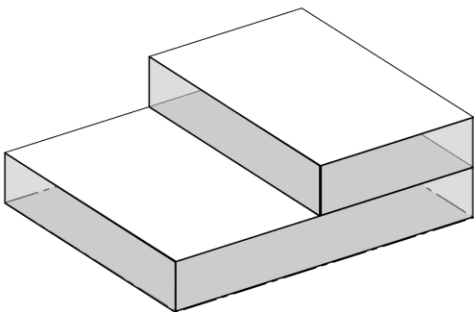
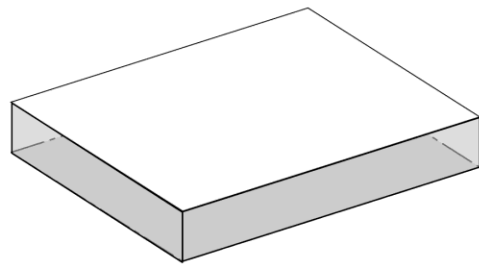
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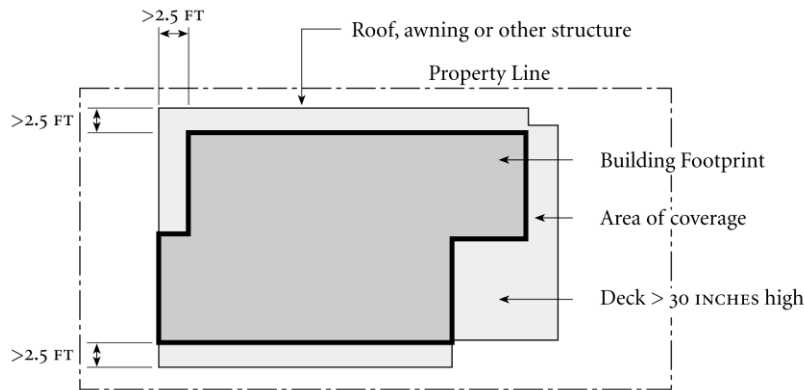
FLOOR AREA RATIO (illustrative)

1
2 **Floor Area, Gross.** The sum of the gross horizontal areas of all floors of the building measured from the exterior
3 faces of the exterior walls, or from the center line of walls separating two buildings but excluding areas where the
4 floor to ceiling height is less than 6 feet. The "floor area" of structures devoted to bulk storage of materials,
5 including, but not limited to grain elevators and petroleum storage tanks, multilevel storage racks shall be deter-
6 mined on the basis of height in feet, i.e., ten (10) feet in height shall equal one (1) floor.

7 **Floor Area, Net.** The Gross Floor Area minus the area of stairwells, elevator shafts, equipment rooms, interior
8 vehicular parking or loading, areas devoted exclusively to storage; and minus all floors below the first floor level,
9 except when these used for human habitation or service to the public. Net floor area shall be used for calculating
10 parking requirements.

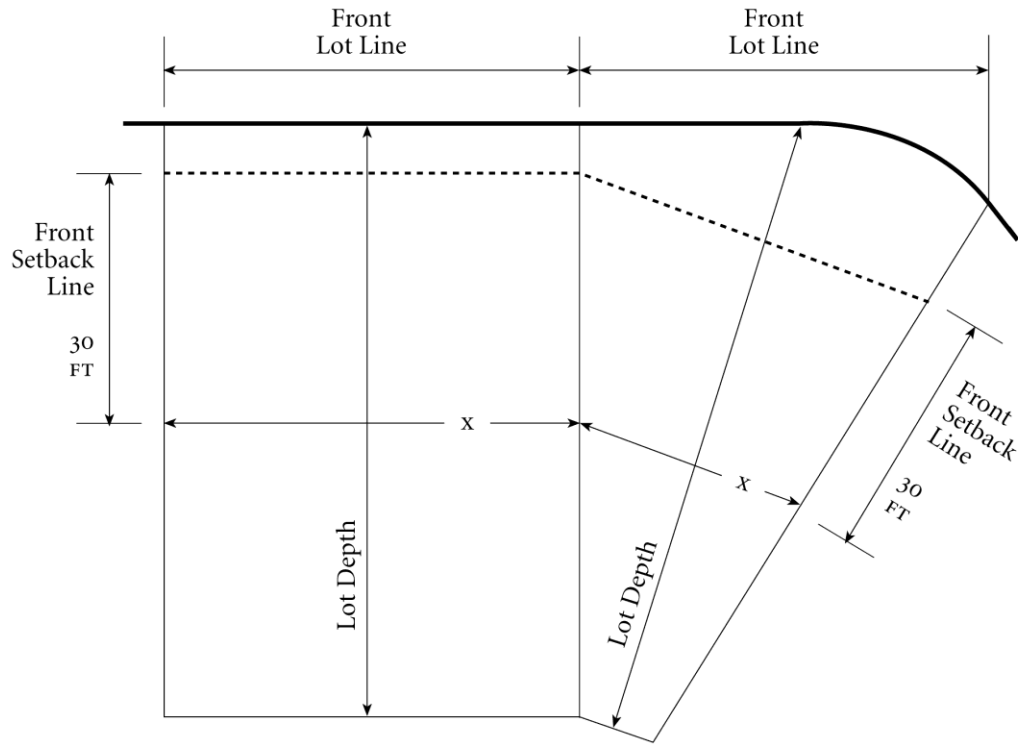
11

- 1 **Lot Area.** The total horizontal area included within the lot lines of a site.
2 **Lot Coverage.** The total land area covered by all principal and accessory structures on a site, including projections,
3 shall be considered in determining lot coverage except the following:
4



5 **LOT COVERAGE**

- 6 Eaves projecting less than 2.5 feet from a building.
7 Trellises and similar structures which do not have solid roofs.
8 Uncovered and unenclosed decks, landings, balconies, and stairways (the portion of which is less than 30 inches
9 above grade).
10 **Lot Depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line or to
11 the most distant point on any other lot line where there is no rear lot line.
12
13 **Lot Width.** The average horizontal distance between the side lot lines measured at right angles to the lot depth from
14 the required front yard setback and from the required rear yard setback or from the rearmost point of the lot depth in
15 cases where there is no rear lot line.

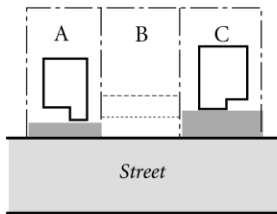


Lot Width = x

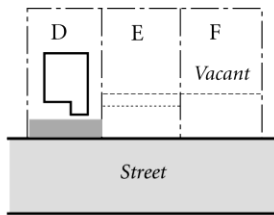
LOT DEPTH AND LOT WIDTH

(The diagram is illustrative)

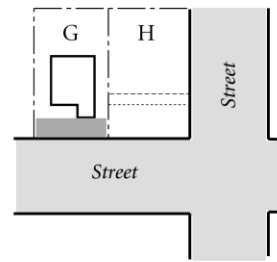
- 1
- 2 **Setbacks.** The minimum distance, extending across the full width of the lot, between the property line and the
- 3 nearest exterior wall or structure. Rules for setback averaging are shown in the diagrams.



Setback for lot B is the average of the existing setbacks for lots A and C



Setback for lot E is the average of the existing setback for lot D and the required setback for lot F.



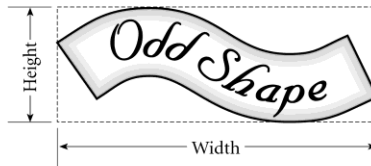
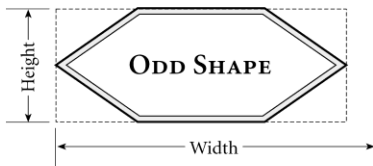
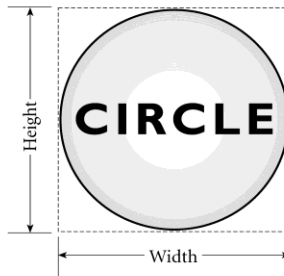
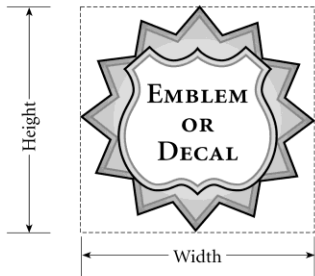
Setback for lot H is the average of the existing setback for lot G and the required setback for lot H along the same street.

- The normally required setback
- The existing setback
- The averaged setback

SETBACK AVERAGING

1
 2 **Sign Area.** The sign area shall be measured as the area within the smallest perimeter that will enclose all of the
 3 letters, figures or symbols that comprise the sign, but excluding essential supports. For multi-faced signs, area will
 4 be the total of all faces. Banners are regulated as signs and subject to the same rules of measurement.
 5 **MEASUREMENT OF SIGN AREA**

6
 7



- 1
2 **Sign Height.** The sign height shall be measured as the dimension determined by measuring the distance between the
3 highest point of the actual sign face and the finished grade directly below it. Sign height shall be measured in feet.
4 Banners are regulated as signs and subject to the same rules of measurement.
5
6 **Wall area.** Wall area shall be measured by calculating the continuous uninterrupted wall area (not including
7 windows) on the elevation where a sign is to be placed.
8
9 **Yards.** Yards include the required setbacks and open space for individual lots. No yard for one lot shall be
10 considered a yard for another lot as well, except in planned developments. Yards shall be measured from the
11 property line of the site or street line to the nearest exterior wall of a structure.