

# **TOWN OF PORT DEPOSIT**

## **ZONING CODE**

**ADOPTED 2003**

**COMPREHENSIVE REVISIONS ADOPTED 03-09-2020**

**CURRENT EDITION**

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# **ARTICLE I PURPOSE AND AUTHORITY**

## **Section 1. Short Title**

This Ordinance shall be known, cited, and referred to as the Town of Port Deposit Zoning Ordinance.

## **Section 2. Authority**

This Ordinance is enacted under the authority granted by the General Assembly of Maryland, as provided in the Maryland Land Use Article, Annotated Code of Maryland, as amended.

## **Section 3. Intent/Authority**

1. This Ordinance is intended to promote the orderly development of the Town of Port Deposit, Maryland, in accordance with the Port Deposit Comprehensive Plan or any of the component parts thereof and in compliance with the Maryland Land Use Article of the Annotated Code of Maryland, as amended. It is also the intent of this Ordinance that the extent of its applicability shall be automatically changed in accordance with the provisions hereof or with any provision of State Law which may hereinafter affect the applicability of this Ordinance.
2. The purpose of this Zoning Ordinance is to implement the Comprehensive Plan for the Town of Port Deposit, Maryland in order to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs as expressed in the Comprehensive Land Use Plan. It is the further purpose of this Zoning Ordinance to provide for economic and efficient land development, encourage the most appropriate use of land, provide convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public service can be provided, protect historic and environmental areas, encourage good civic design, and provide for adequate public utilities, facilities, and services.
3. It is also the objective of this Ordinance to implement the "Twelve Visions" contained in the Maryland Growth Management, Resource Protection and Economic Development Act, namely:
  - a. Quality of Life and Sustainability: a high quality of life is achieved through universal stewardship of the land, water and air resulting in sustainable communities and protection of the environment;
  - b. Public Participation: citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals;
  - c. Growth Areas: growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers;
  - d. Community Design: compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural,

and archaeological resources;

- e. Infrastructure: growth area have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner;
  - f. Transportation: a well-maintained, multimodal transportation system facilities for the safe, convenient, affordable, and efficient movement of people, goods, and services within and between population and business centers;
  - g. Housing: a range of housing densities, types and sizes provides residential options for citizens of all ages and incomes;
  - h. Economic Development: economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities are encouraged;
  - i. Environmental Protection: land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems, and living resources;
  - j. Resource Conservation: waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved;
  - k. Stewardship: government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection; and
  - l. Implementation: strategies, policies, programs, and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, State, and interstate levels to achieve these visions.
4. The regulations and provisions contained in this Zoning Ordinance were adopted and became effective on May 9, 2016.

#### **Section 4. Jurisdiction**

This Ordinance shall be effective throughout the Town of Port Deposit's planning jurisdiction. The town's planning jurisdiction comprises all areas within the corporate boundaries of the Town of Port Deposit, Maryland.

#### **Section 5. Severability**

It is hereby declared to be the intention of the Mayor and Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

## **Section 6. Adequate Public Facilities Requirements**

1. No concept or plan for a subdivision or other major development shall be approved unless the Planning Commission first determines that adequate facilities are available to support and service the proposed subdivision or major development.
2. The applicant shall submit with any subdivision concept plan or major development plan sufficient information and data to demonstrate the expected impact on and use of the public facilities by the residents or occupants of the proposed subdivision or major development.

## **Section 7. No Use, Sale of Land or Bldgs Except in Conformity with Ord. Provisions**

1. Subject to Article VIII of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.
2. For the purposes of this section, the "use" or "occupancy" of a building or lands relates to anything and everything that is done to, on, or in that building or land.

## **Section 8. Violations and Penalties**

Violation of this ordinance shall be punishable as provided in Article VII.

## **Section 9. Relationship to Existing Zoning, Subdivision, & Flood Control Ord**

To the extent that the provisions of this Ordinance are the same in substances as the previously adopted provisions that they replace in the Town's Zoning Ordinance or Subdivision Regulations, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted Zoning Ordinance does not achieve lawful, nonconforming status under this Ordinance merely by the repeal of the Zoning Ordinance.

## **Section 10. Fees**

Fees established in accordance with Town of Port Deposit procedures shall be paid upon submission of a signed application or notice of appeal, unless otherwise determined by the Planning Commission. Additional reasonable fees may be charged by the Town to cover Town expenses related to the review of development plans, i.e., site plans and subdivision plats, and related improvement plans. These fees may include consulting services of an independent engineer, architect and/or landscape architect to assist the Town in the review of development and improvement plans.

## **Section 11. Reserved**

## ARTICLE II BASIC DEFINITIONS AND INTERPRETATIONS

### *Part I. Basic Definitions*

#### **Section 12. Definitions of Basic Terms**

1. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.
2. To amplify and clarify all provisions of this Ordinance, the following rules shall apply:
  - a. Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
  - b. The word "shall" is mandatory and not discretionary.
  - c. The word "may" is permissive.

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

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

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

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

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

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

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

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

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

Adult Bookstore/Adult Entertainment Center/Massage and Conversation/Relaxation Studios - an establishment, store, shop, cocktail lounge, theater, etc., the principal use of which is to offer for sale or viewing items such as books, printed materials, photographs, films, tapes, video tapes, video disks, peep shows, and live acts which depict, describe or relate to sexual activities or specified anatomical areas which are less than completely and opaquely covered. Sexual activities and specified anatomical areas are further defined below. Sexual activities such as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast. Specified anatomical areas are defined as:
4. Less than completely and opaquely covered;
  - a. human genitals, pubic region,
  - b. buttock, and
  - c. female breast above a point immediately below the top of the areola; and
5. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Affordable Housing - units sold or rented to families earning less than 120 percent of the county median income, as determined by the U.S. Department of Housing and Urban Development, and adjusted for family size.

Afforestation - the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas that are not presently in forest cover.

Agriculture - all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

Agricultural Easement - a non-possessory interest in land which restricts the conversion of use of the land, preventing non-agricultural uses.

Alley - a narrow public thoroughfare which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

Alteration - any construction or physical change in the total floor area, internal arrangement of rooms or supporting members of a structure, use, use adaptability or external appearance of an existing structure, not including painting.

Amend or amendments - any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary or area of a zone; or any repeal or abolition of any map, part thereof or addition thereto.

Anadromous fish - fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

Antenna - equipment designed to transmit or receive electronic signals.

Apartment - a part of a building containing cooking facilities and separate bathroom facilities consisting of a room or group of rooms intended, designed, and used as a residence by an individual or a single family.

Apartment Hotel - a building arranged for or containing apartments and individual guest rooms, with or without housekeeping facilities, and which furnishes services ordinarily provided by hotels, such as maid, bellboy, desk, and laundry service, and may include a dining room with internal entrance and primarily for use of tenants of the building, but shall not include public banquet halls, ballrooms, or meeting rooms.

Apartment House - same as "Dwelling, Multiple-Family".

Arcade - a building frontage wherein the façade is above a colonnade that overlaps the sidewalk.

Area, Gross - all the area within a development plan or plat including area intended for residential use, local access streets or alleys, off-street parking spaces, recreation areas, or floodplains.

Automobile Filling Station - any building, structure or area of land used for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.

Aquaculture - the farming or culturing of fin-fish, shellfish, other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments. Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include, but are not limited to, seed or larvae development and grow-out facilities, fish pens, shellfish rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and sub-tidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aqua cultural practices.

Assisted Living - a residential facility-based program approved and licensed by the State of Maryland that provides housing and supportive services, supervision, personalized assistance, health-related services or a combination of these services to meet the needs of the residents who are unable to perform, or who need assistance in performing, the activities of daily living or instrumental activities of daily living, in a way that promotes optimum dignity and independence for the residents.

**Bail Bondsman Office or Bail Bond Agents** - A Bail Bondsman Office or Bail Bond Agent is a person or corporation that will act as a surety and pledge money or property as bail for the appearance of persons accused in court.

**Banner** - any sign of lightweight fabric or similar material. All such signs must be securely fastened to a solid flat surface except if displayed as special event signs by non-profit organizations. National, state, or municipal flags shall not be considered banners.

**Base Flood** - the flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

**Barren Land** - unmanaged land having sparse vegetation.

**Basement** - that portion of a building between the floors and ceiling which is wholly or partly below grade and having more than ½ of its height below grade.

**Bed and Breakfast Home**- a private home in which bedrooms are rented to tourists or travelers and in which breakfast is provided and included in the room rate. Bed and breakfast home means a single-family, dwelling with an owner and or manager on site that may provide food and non-alcoholic and alcohol beverage service for the guests and their guests only. Bed and Breakfast homes may host events such as weddings, small business meetings and conferences.

**Best Management Practices (BMPs)** - conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxic substances, and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

**Billboard (See Sign)** - a structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located, not including painted walls.

**Block Face** - one side of a street between two consecutive intersections. For example, a block-face can be one side of a town block.

**Board** - the Board of Appeals of the Town of Port Deposit which is authorized to grant special exceptions and variances, to hear appeals from administrative decisions and to provide interpretations as provided in this ordinance.

**Boarding House** – A residential use consisting of at least one dwelling unit together with more than two rooms that are rented, or are designed, or intended to be rented, but, individually or collectively, do not constitute separate dwelling units. A boarding house is distinguished from a bed and breakfast home in that the former is designed to be occupied by longer term residents (at least month to month tenants) as opposed to overnight or weekly guests.



Bona Fide Intra-family Transfer - a transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

Boulevard - a street designed to handle above-average volumes of traffic, such as a collector, in which a central median, planted with trees, is a principal feature.

Breezeway - a structure extensively open except for roof and supporting columns which connect a residence and an accessory building on the same lot.

Brewery, Micro – an establishment that brews beer.

Buffer (Critical Area) - a naturally vegetated area or vegetated area established or managed to protect aquatic, wetland shoreline, and terrestrial environments from man-made disturbances. In the Critical Area Overlay District, the minimum Buffer is a continuous area located immediately landward of tidal waters (measured from the Mean High Water Line), tributary streams in the Critical Area, and tidal wetlands and has a minimum width of 100 feet.

Buffer Exemption Area – those areas of the Town located within the tidewater buffer that are largely and totally developed such that the pattern of residential, industrial, commercial or recreational development present as of December 1, 1985 prevents the tidewater buffer from fulfilling its intended purposes.

Buffer Management Plan - a plan designed and intended to describe methods and means used to achieve and enhance the water quality and habitat functions of the Buffer.

Buildable Width - the width of that part of a lot not included within the open spaces herein required.

Building - any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

Building, Accessory - a minor building that is located on the same lot as a principal building and is used incidentally to a principal building or houses an accessory use.

Building, Detached - a building surrounded by open space on the same lot.

Building, floor area of - the total number of square feet area in a building, excluding cellars, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot.

Building, height of - the vertical distance from the highest point of a structure, excepting chimney or antenna on a building to the average of the finished grade or base flood elevation, whichever is less, where the walls or other structural elements intersect the ground at finished grade or base flood elevation.

Building line - a line beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project, unless otherwise provided for in this Ordinance

Building, Main - any building which is not an accessory building.

**Building Permit**- a document issued by the Cecil County Department of Permits and Inspections authorizing buildings or structures consistent with the terms of this Ordinance, and for the purpose of carrying out and enforcing its provisions.

**Building, Principal** - the primary building on a lot or a building that houses a principal use.

**Building-to-Building Distance** - the horizontal distance between the facades of buildings on opposite sides of a street, excluding porches, stoops, projecting eaves, etc.

**Build-to Line** - an alignment, which dictates the front yard setback from a street or public right-of-way, to be followed by buildings or structures fronting thereon. The build-to line does not apply to building projections or recesses.

**Build-up Line** - the height of the building's cornice, which establishes the vertical visual dimension of a building and defines its proportion in relation to the street. It should vary between 1.5 and 2 stories in height, with no more than sixty (60) percent of the build-up line along any single block having a similar cornice or roof line. A two-story build-up line can range from twenty (20) to twenty-five (25) feet above the average ground level at the foundation line of the building.

**Canopy** - a roof-like structure of a permanent nature which may be free-standing or projected from a wall of a building or its supports.

**Cemetery** - a parcel of land used for burials or graves, burial plots, mausoleums, vaults, or columbarium, subject to the approval of the Maryland Department of the Environment.

**Central Median** - the planting strip located between opposing lanes of traffic, typically incorporated into boulevard design.

**Certificate of Appropriateness** – an authorization of the Historic Area Commission or Zoning Inspector allowing the movement, addition, enlargement, structural alteration or excavation for any building, structure, or site, consistent with the terms of this Ordinance.

**Certify** - whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. This may include a certified letter, or if the Town agrees, facsimile, electronic mail, or other similar manner that will produce a “hard copy” of said certification.

**Child Care Center** - any place, home, or institution which receives 5 or more children under the age of 14-years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation provided that this definition shall not include public or private schools organized, operated, or approved under Maryland laws, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services, activities, or meetings.

Child Care Institution - an institutional facility housing more than 9 orphaned, abandoned, dependent, abused, or neglected children.

Circulation Area - that portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Clearcutting - the removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut, from advanced regeneration or stump sprouts, or from planting of seeds or seedlings by man.

Clinic - an office building or a group of offices for one or more physicians, surgeons, or dentists, engaged in treatment of the sick or injured but not including rooms for overnight patients.

Club, Private - buildings and facilities owned or operated by a corporation, association, person, or persons, for social, educational or recreational purpose, but not primarily for profit which accrues to any individual and not primarily to render a service which is customarily carried on a business.

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

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

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

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

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

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

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

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

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

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

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

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

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

Council - Mayor and Council of Port Deposit, Maryland.

Convalescent Home - a building where regular nursing care is provided for more than one person not a member of the family, who resides on the premises.

Covenant - a written undertaking by an owner which is required by this Ordinance or imposed by the Planning Commission in accordance with authorization contained in this Ordinance.

Covenanter - a person who owns legal or equitable title to any land which is affected in any manner by a covenant and includes a person who holds any mortgage, deed of trust or other lien or encumbrance on any such land.

Convenience Store - a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "Fast Fare," "7-11" and "Pantry" chains.

Court - an unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

Coverage - the percentage of the lot covered by buildings and structures.

1. Critical Area - all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include: All waters and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State Wetlands Maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;

2. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
3. Modifications to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Areas Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Dedication - the transfer of property from private to public ownership as may be required to provide for the public health, safety, or welfare.

Deed Restriction - a private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Cecil County, Maryland. These restrictions or covenants are designed to control the use of specific property and enforcement of these is through private civil action. Deed restrictions are not enforced by the Town of Port Deposit, unless it is Port Deposit, Maryland that records said deed restrictions.

Density - the number of principal dwelling units allowed per acre of gross area of a development.

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

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

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

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

Distillery, Micro – an establishment that distills spirits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Elderly or Handicapped People:

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

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

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

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

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

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

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

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

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

Family Day Care – See Child Care Center.

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

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

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

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

Floor Area:

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

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



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

Forest Management - the protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, wildlife habitat, etc.

Forest Practice - the alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, or water quality values.

Frontage:

1. *Street frontage*: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
2. *Lot frontage*: the distance for which the front boundary line of the lot and the street line or mean high water mark are coincident.

Frontage Line - Any lot line or back of sidewalk easement line that abuts a public open space or a thoroughfare that is not an alley.

Gallery - a building frontage wherein the façade is aligned with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk.

Garage or Yard Sale - a public sale conducted by an individual on his or her own premises for the purpose of selling personal property.

Garage, private - a garage used for storage purposes only and having a capacity of not more than 4 vehicles.

Garage, service - a building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

Garage, storage - a building, or portion thereof, designed or used exclusively for storage of motor-driven vehicles and where motor-driven vehicles are not equipped, hired, or sold.

Garden apartments - multi-family housing units that may share a common outside access. Ownership is not a factor in this type of unit, which may be either rental or condominium.

Gas Sales - buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail and where, in addition, minor repair work may be performed, such as ignition service, tire repair, repair and replacement of minor parts, such as pumps and filter, brake service, and the like. "Gas sales" does not include a repair or body shop, but shall include self-service filling stations and any convenience store accessory to or associated with such gas sales.

Grandfathered - the term describes the status accorded certain properties, uses, and development activities that are of record prior to the date of adoption of this Ordinance or provisions of this Ordinance.

Growth Allocation:

1. An area of land calculated as 5 percent of the total Resource Conservation Area (excluding tidal wetlands and federally owned land), that may be converted to more intense management areas to accommodate land development; also
2. An act of the Town Council, approved by the Critical Area Commission, that provides for conversion of a property or properties located in Resource Conservation Areas (RCAs) and/or Limited Development Areas (LDAs) in the Critical Area District to another land management classification that may allow an increase in the permitted density to the level permitted by the base zoning classification.

Golf Course - an area publicly or privately owned, on which the game of golf is played, containing at least 9 holes; together with such necessary and usual accessory uses as a club house, caretakers' dwellings, dining and refreshment facilities, and other such uses, provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

Gun Shop - a gun shop shall be defined as a retail store which sells guns, pistols, rifles, long guns, shot guns, ammunition, firearms, and weapons.

Handicapped or Infirm Home - a residence within a single dwelling unit for at least 6 but not more than 9 persons who are physically or mentally handicapped or infirm, together with not more than 2 persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Habitat Protection Area (HPA) - the Buffer, Threatened and Endangered Species, Plant and Wildlife Habitats, Anadromous Fish Spawning Propagation Waters and Species in Need of Conservation, i.e. colonial nesting waters, historic waterfowl staging and concentration areas, habitat of local significance, as defined in Port Deposit Critical Area Program.

Highly Erodible Soils and Erodible Soils - soils with a slope greater than 15 percent or soils with a "K" value greater than 0.35 and slopes greater than 5 percent. "K value" means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

Historic Waterfowl Staging and Concentration Area - an area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are "historic" in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

Home Occupation - any occupation or activity, which is clearly incidental and secondary to use of the premises for dwelling and, which is carried on wholly within a main building by a member of a family residing on the premises in connection with which there is no advertising other than an identification sign of not more than 4 square feet in area, fixed flat to a wall of the building and no

other display or storage of materials or generation of substantial volumes of vehicular or pedestrian traffic or parking demand or other exterior indication of the home occupation or variation from the residential character of the building; and in connection with which no person outside the resident family is employed and no equipment used which creates offensive noise, vibration, smoke, dust, odor, heat, or glare. When within the above requirements, a home occupation includes, but is not limited to the following: (a) art studio; (b) dressmaking; (c) professional office of a physician, dentist, lawyer, engineer, architect, accountant, sales-person, real estate agent, insurance agent, or other similar occupation; (d) teaching, with musical instruction limited to 1 or 2 pupils at a time; however, a home occupation shall not be interpreted to include tourist homes, animal hospitals, child care centers, tea rooms, or restaurants.

Hotel - a building in which lodging or boarding and lodging are provided for more than 20 persons, primarily transient, and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public as opposed to a boardinghouse, a lodging house, or an apartment house which are herein separately defined. A hotel may include restaurants, taverns, club rooms, banquet halls, ballrooms, and meeting rooms.

Hydric Soils - soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils.

Hydrophytic Vegetation - those plants cited in "National List of Plant Species That Occur in Wetlands: Maryland, 1988" which are described as growing in water or on substrate that is at least periodically deficient in oxygen as a result of excessive water (plants typically found in water habitats).

Illumination - direct artificial lighting or indirect artificial lighting designed to reflect light from light sources erected for the purposes of providing light to a sign or other structure.

Impervious Surface - any man-made surface that is resistant to the penetration of water. (Note: Additional information concerning what constitutes an impervious surface can be obtained from the Town).

Immediate Family Member - father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter.

Infill - The development of vacant, abandoned, passed over or underutilized land within the Historic Overlay District.

Intensely Developed Areas (IDA) - areas of at least 20 adjacent acres or the entire upland portion of the Critical Area within the boundary of a municipality, whichever is less, where residential, commercial, institutional, and/or industrial developed land uses predominate, and where relatively little natural habitat occurs. These areas shall have had at least one of the following features as of December 1, 1985:

1. Housing density equal to or greater than 4 dwelling units per acre;
2. Industrial, institutional, or commercial uses are concentrated in the area; or

3. Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than 3 dwelling units per acre.

Intermittent Stream - a stream in which surface water is absent during part of the year. Intermittent streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States, the Cecil County Soil Survey, or field located. Intermittent streams shall be identified in the field and accurately drawn on all development plans.

Junk (or salvage) Yards - a lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

"K" Value - the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

Kennel - a commercial operation that (a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of animals for sale, or (c) any place where more than two adult animals (over 6 months) are kept for a boarding or other fee, or (d) any place where more than four (e) adult animals are kept for any purpose.

Land-Based Aquaculture - the raising of fish or shellfish in any natural or man-made, enclosed or impounded, water body.

Land Clearing - any activity that removes the vegetative ground cover.

Limited Development Areas (LDA) - areas which are currently developed in low or moderate intensity uses which contain areas of natural plant and animal habitats, and in which the quality of runoff has not been substantially altered or impaired. These areas shall have had at least one of the following features as of December 1, 1985:

1. Housing density ranging from one dwelling unit per 5 acres up to 4 dwelling units per acre;
2. Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
3. Areas having public sewer or public water, or both;
4. Areas meeting the definition of Intensely Developed Areas above, less than 20 acres in size.

Loading Space or Loading Berth - a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks.

Lot - an area of land separated from other areas of land by separate description in a recorded deed of plat.

Lot, Area - the total horizontal area within the lot lines of the lot.

Lot, Corner - a lot located at the intersection of 2 or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, Coverage – Lot coverage is the percentage of a lot or parcel that is developed with a structure, accessory structure, parking area, driveway, walkway or roadway. Lot coverage includes areas covered with gravel, stone, shell, impermeable decking, pavers, permeable pavement, or any other man-made material. Lot coverage does not include a fence or wall that is less than one-foot wide and it constructed without a footer.

Lot, Depth of - the mean horizontal distance between the front and rear lot lines.

Lot, Interior - a lot other than a corner lot.

Lot, Reversed Frontage - a lot in which the frontage is at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

Lot Line - the boundary line of a lot.

Lot, through - an interior lot having frontage on 2 streets.

Lot Width - the distance between the side lot lines measured at the required front yard line.

Lot of Record – a parcel of land which has been legally recorded in the land records of Cecil County.

Major Site Plan - any site plan which would include the extension of public water or sewer lines, placement of roads or installation of any stormwater management device.

Major Subdivision - subdivision that involves any of the following: (a) the creation of more than three lots, (b) the creation of any new public streets, (c) the extension of a public water or sewer system, or (d) the installation of drainage improvements through one or more lots to serve one or more other lots.

Manufacture, Manufacturing - The process of converting of raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for different purpose.

Manufactured Home - a transportable structure which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Manufactured Home, Single-wide - a manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a double-wide manufactured home.

Manufactured Home, Double-wide - a manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

Marina - any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.

Marquee - a roof-like structure of a permanent nature which projects from the wall of a building or its supports and may overhang the public way.

Massage Parlors - an establishment in which manipulative exercises using the hands or hand held mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semi-private rooms and that is related to some sort of monetary compensation paid by the person(s) receiving the massage. A Massage Parlor shall not include:

1. Massages within a licensed hospital, nursing home or health care professional office;
2. Therapeutic massages that are clearly related to a permitted exercise club, athletic program or health club or spa; or
3. Massages involving persons who are related to one another.

Mean High Water Line - the average level of high tides at a given location.

Mobile Home - a dwelling unit that: (i) is not constructed in accordance with the standards set forth in the town's building code applicable to site-built homes, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds 40 feet in length and eight feet in width.

Mobile Home, Class A - a mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

1. The home has a length not exceeding four times its width, which may be calculated using the measurements of a carport or an enclosed porch;
2. The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
3. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
4. A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and

5. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Mobile Home, Class B - a mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A mobile home.

Modular Home – a dwelling unit composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

Motel, Motor Court, Motor Hotel, Lodge, or Inn - same as "Hotel" except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or offices.

Motor Vehicle Dealership - a building, structure, or area of land used for the storage or display for sale of motor vehicles but not used for the storage of dismantled or wrecked motor vehicles.

Natural Features - components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, and wildlife.

Natural Heritage Area - any communities of plants or animals which are considered to be among the best Statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.

Natural Vegetation - plant communities that develop in the absence of human activities.

Neighborhood, Essential Services - any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

Nonconforming Use and Related Definitions-See Article VIII

Nonprofit Organization - any organization engaging primarily in civic or community services including Lions, Kiwanis, Rotary, Optimists and organizations of a similar nature which are not operated for profit and have been granted 5013c status by the Internal Revenue Service.

Non-point Source Pollution - pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather, by changes in land management practices.

Non-renewable Resources - resources that are not naturally regenerated or renewed.

Non-tidal wetlands - means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a non-tidal wetland shall be made in accordance with the publication known as the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, published in 1989 and as may be amended. Non-tidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

Nursing Care Home - a facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than 8 persons.  
Nursing Care Institution - an institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than eight persons.

Nursing Home - a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities, or injuries who do not require extensive or intensive care such as is normally provided in a general or other specialized hospital; includes rest homes, convalescent homes, and homes for the aged. A nursing home does provide medical, nursing, convalescent, or chronic care in addition to room and board.

Occupancy, Certificate of - the certificate issued by the Town Building Official (or delegated official) which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Town Building Code and in this Ordinance.

Office, General - an office for the use of (a) professional people such as doctors, lawyers, accountants, etc., or (b) general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

Offsets - structures or actions that compensate for undesirable impacts.

Off-Street Parking Area - space provided for vehicular parking not on a street or roadway.

Open space - land and water areas retained in an essentially undeveloped state.

Open Space, Useable - that area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness.

Open space may include, but not be limited to, buffers and bufferyards, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools,



wooded areas, and watercourses. Open space shall not include driveways, parking lots or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purpose stated in this definition.

Open Water - tidal waters of the State that do not contain tidal wetlands and/or submerged aquatic vegetation.

Outbuilding - a separate accessory building or structure not physically connected to the principal building.

Owner - the person, partnership, corporation, company, or other legal entity holding current legal title to a lot, tract, or parcel of land.

Palm Readers/Fortune-Tellers and/or Soothsayers - an establishment the principle use of which is to predict the future or give advice of any type through the use of fortune telling devices or practices, including but not limited to palm reading or the reading of other body parts, the reading of tarot cards, the reading of any other items of property if the device or prediction is given in consideration of a fee or other consideration.

Parapet - the extension of the main walls of a building above the roof.

Parcel - an extended area of land.

Parking Area, Lot, or Structure - a structure, or an off-street area for parking or loading and unloading, whether required or permitted by this Zoning Ordinance, including driveways, access ways, aisles, and maneuvering areas, but not including any public or private street right-of-way.

Parking Area Aisles - a portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking, Floor Area - the floor area of a structure as defined herein less storage and warehouse areas used principally for non-public purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

Parking Space, Off-street - an all-weather surfaced area not in a street or alley exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles. At a minimum each parking space shall measure 9' x 18'.

Parking Area Aisles - a portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Pawnbrokers - any person, corporation, or member or members of any partnership or other entity, which loans money on deposit, or pledge of personal property or other things other than securities or printed evidence of indebtedness or who deals in the purchasing of personal property or other valuable thing on the condition of selling the same back at a stipulated price.

Pawnshops - any location where a pawnbroker conducts business.

Pennant - any lightweight plastic, fabric, or other material, whether or not it contains a message of any kind, suspended from a rope, wire, or string. Usually in series, designed to move in the wind.

Perennial Stream - a stream containing surface water throughout an average rainfall year. Perennial streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States, the Cecil County Soil Survey, or field locates. Perennial streams shall be identified in the field and accurately drawn on all development plans.

Person - an individual, trustee, executor, other fiduciary, corporation firm, partnership, association, organization, or other entity acting as a unit.

Pharmacy - a place where drugs and medicines are prepared and dispensed.

Physiographic Features - the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

Place - an open, unoccupied space other than a street or alley, permanently established or dedicated in the principal means of access to property abutting thereof.

Place of Worship - a building or premises where persons regularly assemble for religious worship, and those accessory activities customarily associated therewith; and where the buildings and premises are maintained and controlled by a religious body organized to sustain public worship.

Plot - parcel of land which may include one or more platted lots occupied or intended for occupancy by a use permitted in this Ordinance including one main building together with its accessory buildings; the yard areas and parking spaces required by the Ordinance and having its principal frontage upon a street or upon an officially approved place.

Premises - a lot, together with all buildings and structures thereon.

Primary Highway - a highway designated as a State Primary Highway or U.S. Highway by the Maryland Department of Transportation.

Private Harvesting - the cutting and removal of trees for personal use.

Private Pier - a privately owned pier that is no more than 6 feet wide.

Project Approvals - the approval of development and redevelopment, other than development and redevelopment by a State or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats, building permits and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits.

Port - a facility or area established or designated by the State or local jurisdictions for purposes of waterborne commerce.

Promenade - a public walkway designed to give access to the waterfront within the Town. May include sidewalks and boardwalks adjacent to and over the water.

Property Lines - the lines bounding a lot as defined herein.

Pub - an establishment used primarily for the serving of liquor by the drink to the general public, and where food is regularly served as part of the fare.

Public Utilities - uses or structures for the public purpose of power transmission and distribution (but not power generation); fuel transmission and distribution (but not manufacturing or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities (but not utility truck terminal facilities); radio and television facilities (not including broadcasting studios); and rail or highway rights-of-way (not including stations or terminals).

Public Water-Oriented Recreation - shore-dependent recreation facilities or activities provided by public agencies which are available to the general public.

Public Water and Sewerage Systems - a water or sewerage system owned and operated by a municipality or county or an authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

Public Way - any sidewalk, street, alley, highway, or other public thoroughfare.

Public Utilities - uses or structures for the public purpose of power transmission and distribution (but not power generation); natural gas transmission and distribution (but not manufacture or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities; radio and television facilities (not including broadcasting studios); and rail or road rights-of-way (not including stations or terminals).

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

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

Redevelopment:

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

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

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

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

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

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

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

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

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

#### Restaurants:

1. *Restaurant, standard*-A food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.
2. *Restaurant, fast food*-an establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.
3. *Restaurant, fast food cafeteria*-any establishment where ready-to-eat food is available upon a short waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or counter inside the establishment.
4. *Restaurant, fast food carry-out*-any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so it can readily be eaten away from the premises as there are no facilities for on premises consumption of food.
5. *Restaurant, drive-in or drive-thru*-any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of

operation is also to serve customers in motor vehicles either at a drive-thru window or while parked.

Retail Store - stores selling one kind or various kinds of goods, as distinct from services, such as, but not limited to, drug stores, grocery stores, department stores, camera shops, book stores, and record shops.

Right-of-Way - a strip of land designated for the use of a road, highway, driveway, alley or walkway, or for any drainage or public utility purpose or other similar uses.

Riparian Habitat - a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

Road - all ways used to provide motor vehicle access to (a) 2 or more lots or 2 or more distinct areas or buildings in un-subdivided developments.

Satellite Dish (Receive-Only Earth Station) - a device or instrument, designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite, typically up to twelve feet in diameter, in the shape of a shallow dish or parabola.

Seasonally Flooded Water Regime - a condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

Seat - for the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.

Secondary Highway - a highway designated as a State Secondary Highway by the Maryland Department of Transportation.

Semi-public - a use owned or operated by a nonprofit, religious or philanthropic institution and providing education, cultural, recreational, religious, or similar types of public programs.

Selection - the removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

Sensitive Areas - environmental protection areas identified in the Economic Growth, Resource Protection and Planning Act of 1992 for which special standards, designed to protect these areas from the adverse effects of development, have been included in this Ordinance. These areas include the following:

1. Streams and their buffers;
2. 100-year floodplain;
3. Habitats of threatened and endangered species;

4. Steep slopes; and
5. Any other areas determined by the Town.

Setback - the minimum required distance between the point where any structure or use on a lot meets the ground surface and any lot line or boundary of a town or State road right-of-way.

Shore Erosion Control Measures - any number of structural and nonstructural methods or techniques used to control the erosion of shoreline areas.

Sign – (See Article XV for sign and related definitions)

Site Plan - a drawing or plat which describes and locates required improvements of a development tract in accordance with the provisions of Article IV and Appendix A.

Significant Shoreline Erosion - an annual rate of erosion of 2 feet or greater.

Smoke Lounge - an establishment that is dedicated, in whole or in part, to entertaining smokers of tobacco, electronic vaping devices or other similar substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for onsite delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, hookah cafes, tobacco clubs, tobacco bars, vapor shops/lounges, and similar establishments.

Smoking Shop and/or Smoke Shop - a retail establishment that is dedicated in whole or in part to sales including but not limited to water pipes, bongs, bullets, legal buds, rolling papers, hookahs, herbal vaporizers, roach clips and drug paraphernalia. The smoking and/or smoke shop may also be dedicated in whole or in part, to the smoking of tobacco electronic vaping devices or similar substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for on-site delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances, and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, vapor shops, and similar establishments.

Special Events - circuses, fairs, carnivals, festivals, or other types of special events that (a) run for longer than one day but not longer than two weeks, (b) are intended to or likely to attract substantial crowds, and (c) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Exception - permission by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this ordinance. Such uses may be approved within a zoning district if specific provision for such a Special Exception is made in this Ordinance.

Soil Conservation and Water Quality Plans - land-use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:

1. How the landowner plans to treat a farm unit;
2. Which Best Management Practices the land owner plans to install to treat undesirable conditions; and
3. The schedule for applying Best Management Practices.

Species in Need of Conservation - those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article, 10-2A-03 and 4- 2A-03, Annotated Code of Maryland.

Spoil Pile - the overburden and reject materials as piled or deposited during surface mining.

Species of Concern - rare, threatened or endangered species or species in need of conservation.

State Tidal Wetland - any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Tidal wetlands of this category which have been transferred by the State by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred.

Steep Slopes – Within the Limited Development Area (LDA) and Resource Conservation Area (RCA) steep slopes shall mean any slope with a grade of 15 percent or more. Within the Intensely Developed Area (IDA) and non-critical area portion of the Town, steep slopes shall mean any land area exceeding forty thousand (40,000) square feet with slope in excess of twenty-five percent (25%).

Storage - the keeping, either indoors (including inside a cargo trailer) or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle weighing no more than 2.5 tons gross vehicle weight which, although used primarily for business, trade, or professional purposes, also provides daily transportation to and from work.

Stormwater Management:

1. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
2. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminated pollutants that might otherwise be carried by surface runoff.

Story - that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it' or if there be no floor above it, then the space between such floor and the ceiling next above it.

Story, Half - a space under a sloping roof at the top of the building, the floor of which is not more than 2 feet below the plate, shall be counted as a half-story when not more than 60 percent of said floor area is used for rooms, baths, or toilets. A half-story containing an independent apartment or living quarters shall be counted as a full story.

Street - a public thoroughfare which affords the principal means of access to property abutting thereon.

Street, Classifications - For official street definitions see the Port Deposit Subdivision Regulations.

Street Line - a dividing line between a lot, trace, or parcel of land and a contiguous street.

Structure - anything, other than a fence or retaining wall, constructed or erected which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, mobile homes, and pre-fabricated homes. Pre-fabricated homes include factory preassembly of standardized building parts, or the shipment of component building sections for permanent installation on a site. Prefabricated homes do not include mobile homes in which mobility, or the ready means of reactivating mobility, remains an integral feature of the trailer.

Structural Alterations - any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams, girders, or any substantial change in the roof or in the exterior walls.

Subdivision - The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future).

Subdivision, Major - any subdivision other than a minor subdivision.

Subdivision, Minor - a subdivision that does not involve any of the following:

1. the creation of more than a total of four or fewer lots;
2. the creation of any new public streets,
3. the extension of a public water or sewer systems, or
4. the installation of drainage improvements through one or more lots to serve one or more other lots.

Substantial Renovation – Improvements to an existing structure involving 500 square feet or more of existing or new floor area that results in changes in the physical characteristics of the structure involved, including changes in walls windows and doors, site work, changing the use of the space, etc.

Tattoo Studios, Body Piercing Studios, and/or Branding Studios - an establishment in which the following services are performed:

1. External body modification through the application of a tattoo, body piercing, or branding;



2. an indelible mark made upon the body of an individual by the insertion of pigment under the skin or an indelible design made upon the body by the production of scars other than branding;
3. Location of a permanent mark by burning with a hot iron or other instrument, or the perforation of human tissue other than an ear for a non-medical purpose.

Tavern - an establishment used primarily for the serving of liquor by the drink to the general public, and where food or packaged liquors may be served or sold only as an accessory to the primary use. Also called a bar or lounge.

Teardown - Demolition

Television or satellite dish - a device or equipment used for the receiving of television or radio programming which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure, in either a side or rear yard.

Temporary Emergency, Construction or Repair Residence - a residence (which may be a mobile home) that is (a) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (b) located on the same lot as a residence that is under construction and occupied by the persons intending to live in such permanent residence when the work is completed, or (c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. These residences shall be removed from the site within one-month of resolution of the situation which prompted their need.

Temporary Structure - any structure erected for a time of six (6) months or less, consisting of any material with a running edge of twenty-five (25) feet or more. Temporary structures includes tents with any running edge of twenty-five (25) feet or more.

Thinning - A forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

Threatened Species - any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources which appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be "threatened" species pursuant to the federal Endangered Species Act, 16 U.S.C., 1531 et seq., as amended.

Tidal Wetlands - all State and private wetlands, marshes, submerged aquatic vegetation, lands, and open water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean to a distance of 3 miles offshore of the low water mark.

Topography - the existing configuration of the earth's surface including the relative relief, elevations, and position of land features.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Utility Facilities, Neighborhood - utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

Utility Transmission Facilities - fixed structures that convey or distribute resources, wastes, or both, including, but not limited to, electric lines, water conduits, and sewer lines.

Variance - a modification only of density, bulk or area requirements in the Port Deposit Zoning Ordinance where such modifications will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the ordinance would result in unnecessary hardship.

Vendor Operations - those uses offering a product for sale on a regular basis, in which said sales are not located within a permanent structure.

Warehouse - a structure used for the storage and/or the sale of products at wholesale, and where the sale of a product at retail is incidental.

Wash Plant - a facility where sand and gravel is washed during processing.

Water-based Aquaculture - the raising of fish and shellfish in any natural, open, free-flowing water body.

Watercourse - any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow or water.

Water-Dependent Facilities - structures or works associated with industrial, maritime, recreational, educational, or fisheries activities which the Town of Port Deposit has determined require location at or near the shoreline within the Buffer.

Wildlife Corridor - a strip of land having vegetation that provides habitat and a safe passageway for wildlife.

Wholesaling - the selling of goods in relatively large quantities and usually at lower prices than at retail, especially such selling to retailers for resale to consumers.

Wooded Area - an area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater caliper tree per 325 square feet of land and where the branches and leaves form a contiguous canopy.

Yard - an open space other than a court, on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this Ordinance (see Figure 1).

Yard, Front - a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line or mean high water mark and the main building or any projection thereof, other than the terraces, or uncovered porches. On corner lots,

the front yard shall be considered as parallel to the street upon which the lot has its least dimension. The waterside of waterfront properties shall be considered the front yard in addition to the normal front yard that extends to the street line.

Yard, Rear - a yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, un-enclosed porches or entrance-ways.

Yard, Side - a yard between the main building and the side line of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between the side lot line and side of the main buildings or any projections thereof.

Zoning Amendment/Rezoning – An amendment to the zoning map that changes the zoning of a property. See Article XIX.

Zoning Certificate - a document that certifies that the Zoning Inspector has approved a proposed use of property as being consistent with the provision of this Ordinance.

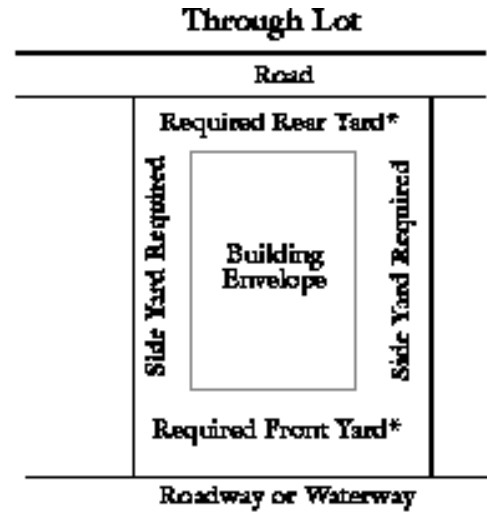
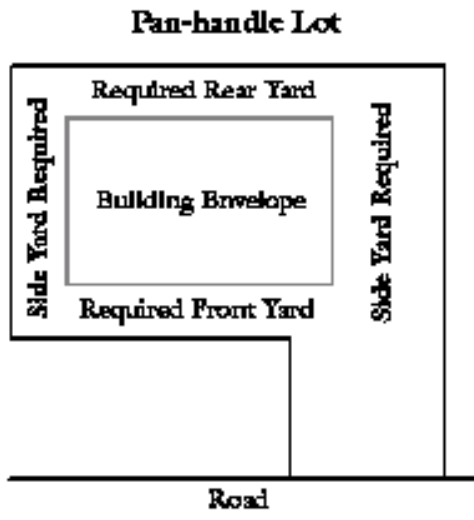
Zoning Inspector - the authorized representative designated by the Town Council to carry out duties as specified in this ordinance. In the absence of an appointed Zoning Inspector, these duties are assumed to be the responsibility of the Town Administrator.

Zoning Overlay District - a district which is placed over the existing regular or parent zoning because of citing of a zoning district or imposes additional restrictions, e.g., the Critical Area Overlay District.

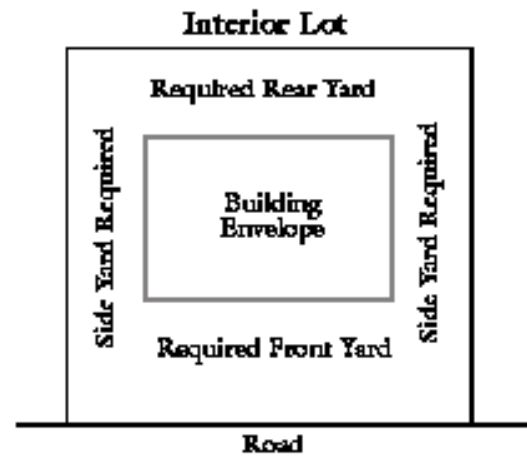
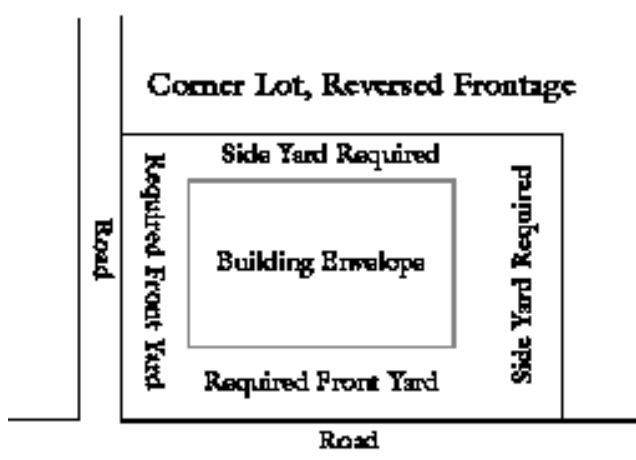
Zoning Parent District - those basic districts initially listed other than Special Districts in Article IX.

Zoning District - an area within which certain uses of land and structures are permitted and certain others are prohibited; yards and other open spaces are required; minimum lot areas and dimensions and other requirements are established.

**Figure 1      Lots**



\* Subject to lot types definition



## ***Part II Zoning Maps***

### **Section 13. Official Zoning Maps**

1. The incorporated areas of the Town are hereby divided into zones (zoning districts), as shown on the Official Zoning Maps which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
2. The Official Zoning Maps shall be identified by the signatures of the Town Council attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Maps referred to in Article II, Section 13 of the Zoning Ordinance of the Town of Port Deposit, Maryland", together with the date of the adoption of this Ordinance.
3. Regardless of the existence of purported copies of the Official Zoning Maps which may from time to time be made or published, the Official Zoning Maps which shall be located in the Town Office, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.
4. Official Critical Area Overlay District Maps
  - a. Official Critical Area Overlay District Maps have been prepared for the Town of Port Deposit and shall be maintained in force as part of the Official Zoning Maps of Port Deposit. They shall delineate the extent of the Critical Area Overlay District that shall correspond to the Chesapeake Bay Critical Area.
  - b. The Critical Area Overlay District shall include all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
    - (1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
    - (2) All lands and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
    - (3) Modification to these areas through inclusion or exclusion proposed by the Town of Port Deposit and approved by the Critical Area Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
  - c. Within the designated Critical Area all land shall be assigned one of the following land use management classifications:
    - (1) Intensely Developed Area (IDA)
    - (2) Limited Development Area (LDA)
    - (3) Resource Conservation Area (RCA)

The land use management classification shall be as designated in the Town of Port Deposit Critical Area Program, as amended. The Critical Area Overlay District Maps may be amended by the Town Council in compliance with amendment provisions in this Ordinance, the Maryland Critical Area Law and Critical Area Criteria.

## **Section 14. Replacement of Official Zoning Maps**

1. In the event that the Official Zoning Maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Council may by resolution adopt new Official Zoning Maps which shall supersede the prior Official Zoning Maps.
2. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The Planning Commission shall certify as to the accuracy of the new Official Zoning Maps and the maps shall be identified by the signature of the Town Council attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that these Official Zoning Maps supersedes and replaces the Official Zoning Maps adopted October 28, 2003 as part of the Zoning Ordinance of Port Deposit, Maryland."

## **Section 15. Interpretation**

1. The regulations set by this Ordinance within each district shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience, prosperity, environment and natural resources, and general welfare, and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.
2. It is not intended by this Zoning Ordinance to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law, ordinance or resolution, or with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed, or recorded plat, provided, however, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights or buildings or requires greater lot areas, larger yards, or other open spaces than are imposed or required by such existing provisions of law, ordinance, or resolution, or by such rules, regulations, or permits, or by such private restrictions, the provisions of this Zoning Ordinance shall control.
3. Whenever these regulations, subdivision plats, or development plans approved in conformance with these regulations, are in conflict with other local ordinances, regulations, or laws, the more restrictive ordinance, regulation, law, plat, or plan shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Planning Commission, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as shown on the approved plan shall govern and shall be enforced by the local permit official. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Planning

Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the permit official.

4. To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the Town prior to the date of adoption of this Ordinance or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within 180 days from the date of issuance of the certificate or permit. "Exercised", as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have been let, or in the absence of contracts, that the main building or other main improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments shall be under contract, in development, or completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit or certificate.
5. Lots Divided by District Lines
  - a. Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the large portion of the lot lies shall apply to the entire lot.
  - b. Whenever a single lot greater than two acres in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

## **Section 16. Location and Boundaries of Zones**

1. The location and boundaries of zones established in the districts shall be as shown on the Official Zoning Maps for the Port Deposit. This map, sections or portions thereof, together with all notations, dimensions, designations, references, and other data shown thereon, are made a part of this Ordinance to the same extent as if the information set forth on the map were fully described and incorporated herein.
2. Where uncertainty exists as to the boundaries of any of the zone districts established in this Ordinance, as shown on the Official Zoning Maps, the following rules shall apply:
  - a. Zone boundary lines are intended to follow street, alley, or lot lines or lines parallel or perpendicular thereto, unless such zone boundary lines are otherwise identified on the zoning map;
  - b. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries;
  - c. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 10 feet distant there from, such lot lines shall be such boundaries;



- d. In un-subdivided property, or where a zone boundary divides a lot, the location of any such boundary, unless the same is identified on such maps, shall be determined by the use of the map scale shown thereon and scaled to the nearest foot.
3. Any area annexed to Port Deposit after the date of adoption shall immediately upon such annexation be automatically classified in the most nearly comparable zone until a zoning map amendment for such area has been adopted by the Town Council. The Planning Commission shall recommend to the Town Council appropriate zoning for the annexed area within 6 months after the effective date of such annexation.

## **Section 17. Reserved**

## **ARTICLE III ADMINISTRATIVE MECHANISMS**

### ***Part I. Planning Commission***

#### **Section 18. Appointment and Terms of Planning Commission Members**

1. There shall be a Planning Commission consisting of 5 members and one alternate, all of whom shall be residents of the Town and shall be qualified by knowledge and experience in matters pertaining to the development of the Town. All 5 members and the alternate shall be appointed by the Town Council. The members shall be appointed to represent as many different geographical areas of the Town of Port Deposit as is possible. Members and the alternate shall be appointed for terms of 3 years or until their successors are appointed and qualified. The respective terms of the members and alternates shall be on a staggered basis. Vacancies shall be filled by appointment by the Town Council for the unexpired term only. Members and alternates of the Commission shall serve without compensation.
2. One member of the Town Council may also be an ex-officio, advisory member of the Planning Commission and shall be selected by the Town Council. The term of this member shall correspond to his official term as a member of the Town Council. The term on the Planning Commission of the member of the Town Council shall cease whenever his or her official tenure as a member of the Town Council terminates.

#### **Section 19. Meetings of the Planning Commission**

1. The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner. This shall entail at least one regular meeting each month.
2. The Planning Commission need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
3. Minutes shall be kept of all Planning Commission meetings and proceedings.
4. All Planning Commission meetings shall be open to the public. The Zoning Inspector shall post the time and place of any public meeting, with the proposed agenda at least three days prior to the meeting.
5. Whenever the Planning Commission is called upon to make recommendations on any proposal before the Commission, the Zoning Inspector shall post on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location, and content to provide notice to potentially interested persons of the matter that will appear on the Commission's agenda at a specified date and time. Such notice(s) shall be posted at least 14 days prior to the meeting at which the matter is to be considered.

#### **Section 20. Quorum and Voting of the Planning Commission**

1. A quorum for the Planning Commission shall consist of a majority of the Commission membership (excluding vacant seats). A quorum is necessary for the Commission to take official action.
2. All actions of the Planning Commission shall be taken by majority vote, a quorum being present.
3. A roll call vote shall be taken upon the request of any member.
4. The alternate member shall attend all meetings in order to be fully versed on all applications before the Planning Commission. When required to achieve a quorum, the alternate may vote on actions taken by the Planning Commission if the alternate has been present throughout all deliberations on the application.
5. All advisory members shall have all the privileges of membership except the right to vote.

## **Section 21. Planning Commission Chairman**

1. The Planning Commission shall elect, by the 31st of January each year, a chairman and vice-chairman who shall serve for one year. If the Planning Commission fails to elect a chairman and vice-chairman by the 31st of January each year the Council will appoint a chairman and vice-chairman.
2. The chairman and vice-chairman may take part in all deliberations and vote on all issues.

## **Section 22. Powers and Duties of Planning Commission**

1. The Planning Commission may:
  - a. Make studies and recommend to the Town Council plans, goals, and objectives relating to the growth, development and redevelopment of the Town.
  - b. Develop and recommend to the Town Council policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
  - c. Make recommendations to the Town Council concerning proposed zoning amendment requests.
  - d. Hear and decide applications for land development, reuse and adaptive conversion of structures, and approve subdivision plats and site development plans.
  - e. Make recommendations to the Board of Appeals on special exceptions and special conditions.
2. The Planning Commission may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

3. The Planning Commission may delegate authority for review and approval actions to the Town Administrator and/or Zoning Inspector as deemed appropriate.
4. The Planning Commission shall:
  - a. Prepare the local jurisdiction Annual Report pursuant to §1-207 of the Land Use Article and file a copy with the Town Council and Maryland Department of Planning by July 1.
  - b. Evaluate the need to update the Town's Development Capacity Analysis pursuant to §1-208(c) (iii) of the Land Use Article.
  - c. Review the Comprehensive Plan at least once every ten (10) years pursuant to Section 1-207 of the Land Use Article
  - d. Prepare any Comprehensive Plan five-year implementation update pursuant to §1-207(c) (6) of the Land Use Article.
  - e. Prepare any Critical Area six-year updates pursuant to § 8-1809(g) of the Natural Resources Article and Section 140.

## **Section 23. Advisory Committees**

1. From time to time, the Town Council may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Town Council may appoint advisory committees to consider the comprehensive development plan, housing plans, economic development plans, etc.
2. Members of such advisory committees shall sit as non-voting members of the Planning Commission when such issues are being considered and lend their talents, energies, and expertise to the planning commission. However, all formal recommendations to the Town Council shall be made by the Planning Commission.
3. Nothing in this section shall prevent the Town Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Town Council.

## ***Part II. Board of Appeals***

### **Section 24. Appointments and Terms of Board of Appeals**

1. There shall be a Board of Appeals consisting of three (3) members to be appointed by the Council. The members shall be individuals who are residents of the Town. No member of the Board of Appeals shall be a member of the Planning Commission. Appointment shall be for staggered terms of 3 years. If a vacancy occurs, by resignation or otherwise among the members of the Board of Appeals the Council shall appoint a new member to serve for a 3 year term. Members of the Board shall serve without compensation.

2. The Town Council shall designate one alternate member for the Board of Appeals who may be empowered to sit on the Board in the absence of member of the Board. If the alternate is absent, the Council may designate a temporary alternate.

## **Section 25. Meetings of the Board of Appeals**

1. The Board of Appeals shall establish a regular meeting schedule at the direction of the Town Council and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner.
2. The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.
3. All meetings of the Board shall be open to the public, and whenever feasible the tentative agenda for each board meeting shall be made available in advance of the meeting.
4. The Board shall keep transcripts of all proceedings and minutes showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Board and shall be a public record.

## **Section 26. Quorum of the Board of Appeals**

1. A quorum for the Board of Appeals shall consist of a majority of the regular Board membership (excluding vacant seats) including the alternate. A quorum is necessary for the Board to take official action.
2. A member who has withdrawn from the meeting without being excused as provided in Section 27.3. shall be counted as present for purposes of determining whether a quorum is present.

## **Section 27. Voting of the Board of Appeals**

1. The concurring vote of the majority of the Board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, Planning Commission or Town Administrator, as may be the case, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance.
2. Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with Subsection 3 or has been allowed to withdraw from the meeting in accordance with Subsection 4.
3. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
  - a. If the member has a direct financial interest in the outcome of the matter at issue, or
  - b. If the matter at issue involves the member's own official conduct, or

- c. If participation in the matter might violate the letter or spirit of a member's code of professional responsibility, or
  - d. If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
4. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
  5. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
  6. A roll call vote shall be taken upon the request of any member.

## **Section 28. Board of Appeals Officers**

1. The Board of Appeals shall annually elect one of its members to serve as chairman by the 31st of January each year, who will preside over the Board's meetings, and one member vice chairman, who will preside over the board's meetings in the absence of the chairman. The person so designated shall serve in this capacity for a term of one year. If the Board of Appeals fails to elect a chairman by the 31st of January each year the Council will appoint a chairman.
2. The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the Board.
3. The chairman and vice-chairman may take part in all deliberations and vote on all issues.

## **Section 29. Powers and Duties of Board of Appeals**

1. The Board of Appeals shall hear and decide:
  - a. Appeals from any order, decision, requirement, or interpretation made by the Zoning Inspector, Planning Commission or Town Administrator, as provided in Section 71.
  - b. Applications for Special Exception Uses, as provided in Article IV, Part II.
  - c. Applications for variances as provided in Section 72, and reuse and adaptive conversion of structures as in Section 126.
  - d. Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 73, and questions involving permitted uses in a zoning district as provided for in Section 160.
  - e. Any other matter the Board is required to act upon by any other Town ordinance.
2. The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

## ***Part III Zoning Inspector***

### **Section 30. Zoning Inspector**

There is hereby established the Office of Zoning Inspector. The Zoning Inspector is appointed by the Mayor and confirmed by a majority vote of the Town Council. He may be relieved of his duties for just cause upon written charges by a majority of the Town Council.

### **Section 31. Powers and Duties of the Zoning Inspector**

1. It shall be the duty of the Zoning Inspector to administer and cause the enforcement of the provisions of this Ordinance. All departments, officials, and public employees, or designees, of Port Deposit which are vested with authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall not issue any permit or license for any use, building, structure, or purpose which would be in conflict with the provisions of this Ordinance. Any permit or license, issued in conflict with the provisions of this Ordinance, shall be null and void. If the Zoning Inspector finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structure or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions. The Zoning Inspector shall administer this Ordinance on a day-to-day basis as directed by the Town Administrator.
2. The Zoning Inspector shall also prepare staff comments on such matters as required by this ordinance or when so directed by the Mayor and Town Council, Planning Commission, Town Administrator or Board of Appeals. The Zoning Inspector is primarily responsible for insuring that this work is completed on a timely basis.
3. All powers and duties of the Zoning Inspector may be assumed by the Town Administrator in his or her absence.

## ***Part IV. Council***

### **Section 32. Town Council**

The Town Council are the local elected legislative body. The Town Council's primary responsibility relative to this Ordinance shall be to make final decisions on zoning amendment petitions, annexations, and stormwater management waivers and to make such appointments as identified in this Ordinance. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in their legislative capacity and must proceed in accordance with the requirements of Article XVIII.

## ***Part V. Historic Area Commission***

### **Section 33. Historic Area Commission**

The Historic Area Commission (HAC) is an appointed body responsible for making decisions on Certificate of Appropriateness for all development activities within the Port Deposit Historic District, as identified on the official Zoning Map of Port Deposit. A Certificate of Appropriateness from HAC is required prior to the issuance of a Zoning Certificate. HAC shall review projects in accordance with Article IX, Part III Historic Overlay District.

## **Part VI. Applications**

### **Section 34. Application Deadline for Boards and Commissions**

All applications for Boards and Commission hearings/meetings are due a minimum of twenty-one (21) days in advance of the scheduled meeting. At the Zoning Inspector's discretion, the twenty-one day requirement may be extended, not to exceed ninety (90) additional days.

### **Section 35. Reserved**



## **ARTICLE IV DEVELOPMENT APPROVAL**

### ***Part I Building and Zoning Permits***

#### **Section 36. Permits Required**

1. No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a zoning certificate therefore, issued by the Zoning Inspector. No zoning certificate shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals.
2. No building or other structure shall be erected, nor shall any existing building or structure be moved, added to, enlarged, or structurally altered, and no excavation or demolition for any building or other structure shall begin without the issuance of a Building Permit by the Cecil County Department of Permits and Inspection. A Zoning Certificate issued by the Zoning Inspector is required in order to apply for a building permit.
3. In addition to the building permit, the following permits may be required:
  - a. Sign Permits. No sign shall be created, erected, moved, added to, or structurally altered, nor shall any of said activities be commenced without a sign permit issued by the Zoning Inspector.
  - b. Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in the Port Deposit Subdivision Regulations.
  - c. Other Permits. Additional permits, including approvals by other agencies, may be required.
4. Permits are issued under this ordinance only when the application fee has been paid and a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, all development shall occur strictly in accordance with such approved plans and applications.
5. Physical improvements to land to be subdivided shall not be commenced without a signed, recorded final plat, a Bond, or Letter of Credit and a public works agreement approved by the Mayor and Council of the Town of Port Deposit.
6. In the discharge of his/her duties, the Zoning Inspector shall have the authority to enter at any reasonable hour any building, structure, or premise in the Town to enforce the provisions of this Ordinance. For this purpose a badge of office for the Zoning Inspector may be adopted and shall be displayed for the purpose of identification. The assistance and cooperation of sheriffs and/or police, fire, and health departments and all other Town officials shall be available to the Inspector as required in the performance of his/her duties.

7. The Planning Commission and/or Town Council may require that the expense of development and improvement plan review by the Town, including independent engineering services, be borne by the applicant in addition to any other fees required.

### **Section 37. Severability**

1. Compliance with Other Codes, Statutes, and Regulations. Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.
2. Prior Permits. No building permit which was lawfully issued prior to the original effective date of this Ordinance and which is in full force and effect at said date shall be invalidated by the passage of this Ordinance - provided that all such permits shall expire not later than 180 days from the effective date of this Ordinance, unless actual construction shall have begun and continued pursuant to the terms of said permit.
3. Conflict with Other Permits. Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by any agency, department or employee unless a Zoning Certificate has been issued by the Zoning Inspector. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

### **Section 38. Computation of Time**

1. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
2. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him or her and the notice or paper is served by mail, 3 days shall be added to the prescribed period.

### **Section 39. Permit Application Requirements and Procedures**

All applications for permits shall be accompanied by such plans and information as the Town of Port Deposit deems necessary to determine compliance and provide for enforcement of the Zoning Ordinance, and the application fee. The application materials listed in Appendix A shall be a minimum. Additional information may be required.

1. Site Plan Review and Approval
  - a. Prior to issuing a building permit for construction, expansion or change in use, a site plan and supporting documentation shall be submitted to the Planning Commission for its review and approval.
  - b. The purpose of site plans is to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements. Development requiring site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan, and shall not be

undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.

- c. Applicability. All development or land use activities within the town shall require site plan review before being undertaken, except the following:
  - (1) Construction or expansion of a single family dwelling and ordinary accessory structures, and related land use activities.
  - (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Chapter.
  - (3) Ordinary repairs, maintenance or interior alterations to existing structures, not including a change of use.
  - (1) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 500 square feet or have a cost value of less than \$10,000.00.
  - (5) Agricultural or gardening uses.
  - (6) All signs except in conjunction with new development.
- d. Site plan applications shall include the information listed in Appendix A for preliminary and final site plans. The Planning Commission may waive any information or preliminary requirements, which are not relevant to the proposed use and site may require only a minor site plan be submitted.
- e. The Planning Commission's review of the preliminary and/or final site plan shall include, but is not limited to the following considerations:
  - (1) Adequacy and arrangement of vehicular traffic access and circulation, including emergency vehicle access.
  - (2) Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - (3) Location, arrangement, size and design of buildings, lighting and signs.
  - (4) Relationship of the various uses to one another and their scale.
  - (5) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.
  - (6) Adequacy of storm water and sanitary waste disposal.
  - (7) Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding or erosion.

- (8) Compatibility of development with natural features of the site and with surrounding land uses.
  - (9) Adequacy of floodproofing and flood prevention measures consistent with the flood hazard prevention regulations of the Federal Emergency Management Agency.
  - (10) Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
  - (11) Adequacy of pedestrian access.
- f. The Planning Commission may require additional information which appears necessary for a complete assessment of the project.
  - g. Major site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
  - h. Upon receipt of the major site plan, the Planning Commission shall review the site plan, soliciting comments from other departments, agencies, and officials as may be appropriate. The site plan shall be approved if it meets the requirements of this section, Appendix A, other requirements of this Chapter and all other Federal, State, and County regulations. Notice of approval or disapproval of the site plan shall be given in writing to the applicant.
  - i. Construction of required improvements.
    - (1) Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Planning Commission or appropriate town review and approval agencies.
    - (2) After construction has been completed, inspection of site improvements shall be made by the departments certifying to the applicable requirements as shown on the site plan.
  - j. Expiration and Extension
    - (1) Approval of site plans shall be for a one (1) year period and shall expire at the end of such period unless building construction has begun.
    - (2) Upon written request by the applicant, within thirty (30) days prior to the expiration of said approval, a one (1) year extension may be given by the Planning Commission.
    - (3) Such request shall be acknowledged and a decision rendered thereon not more than thirty (30) days after filing of said request.

- k. The following additional requirements shall be applicable to site plans required under this section:
  - (1) Compliance with applicable established design criteria, construction standards, and specifications for all improvements as may be required by the Planning Commission and this Zoning Ordinance. The Planning Commission may require that the proposed development comply with some or all of the applicable design requirements contained in the Town's Subdivision Regulations.
  - (2) The building permit shall not be issued unless and until the Maryland Department of Transportation has approved the site plan as it relates to access point design details and parking lot circulation layout on a state highway.
  - (3) Other Approvals. If this Zoning Ordinance requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit.
  - (4) Any or all of the information required for a minor or major site plan may be waived if the Planning Commission finds that it is not needed to make a determination of Zoning Ordinance compliance.
- 2. General Development Plan and Master Plans
  - a. A general development plan is a site plan by which, at the early stages of development design, the Planning Commission may consider, approve, or restrict major aspects of the development without requiring an undue amount of final design work on the part of the developer. The general development plan is less detailed and specific than a major site plan in terms of exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. No building permits can be issued based upon a general development plan.
  - b. General development plans shall be required as follows:
    - (1) General development plans shall be required to permit more than one principal structure and its accessory structures on a lot or parcel of land.
    - (2) A general development plan shall be required for development in the B & I Employments District.
- 3. Grading Permits. Requirements for grading permits shall be as required by the Cecil County Soil Conservation Service.
- 4. Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in Subdivision Regulations.
- 5. Sign Permits. Requirements for sign permits shall be as provided in Article XV.
- 6. Transportation Plan

- a. No building or part of a building shall be permitted to be erected within the lines of highway, street, or pedestrian route shown on the Town's Transportation Plan Map found in the Comprehensive Plan.
  - b. The owner of the property so affected, however, shall have the right to appeal the refusal of a building permit to the Board of Appeals, and the Board may grant a permit to build if it should find, upon the evidence and arguments presented to it upon such appeal:
    - (1) That the entire property of the appellant of which the area affected by the Transportation Plan forms a part, cannot yield a reasonable return to the owner unless such appeal be granted; and
    - (2) That balancing the interest of the general public in preserving the integrity of the plan and the interest of the owner of the property in the use and benefits of his property, the granting of such permit is required consideration of reasonable justice and equity.
  - c. Before taking any action, the Board of Appeals shall hold a public hearing at which time the parties in interest shall have an opportunity to be heard. In the event the Board grants a building permit in any such appeal, it shall have the power to specify the exact location, extent, area, height, duration, and other details and conditions to govern the building, structure, or part thereof for which the permit is granted.
7. Stormwater Management Plan. A permit may not be issued for any parcel or lot unless a stormwater management plan meeting all the requirements of the Cecil County Stormwater Management Plan has been approved.
  8. Forest Conservation. Projects that ultimately require approval of subdivision, sediment control, site plan approval or grading permits must comply with the requirements of the Cecil County Forest Conservation Plan .
  9. All walls, including retaining walls, shall have plans sealed by a Maryland licensed architect or engineer. The requirement may be waived by the Planning Commission for walls less than four (4) feet in height, unless located along a public right of way.

#### **Section 40. Certificate of Occupancy**

1. It shall be unlawful to use or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until an occupancy permit has been issued by the Cecil County Department of Permits and Inspections.
2. The Zoning Inspector shall maintain a record of all occupancy permits and copies shall be furnished upon request of any person.

#### **Section 41. Inspection and Supervision During Installation**

1. Unless specifically provided in this ordinance, the construction standards for all off-site improvements and on-site improvements required by this Article shall conform to the Town design and construction standards. Appropriate Town authorities or designee shall approve the plans and specifications for all required improvements and shall inspect the construction of such improvements to assure conformity thereto.
2. Inspection during the installation of the off-site improvements shall be made by the department or designee responsible for such improvements as required to certify compliance with the approved site plan and applicable standards.
3. The owner shall notify the Zoning Inspector in writing 3 days prior to the beginning of all street, water sewer, or storm sewer work shown to be constructed on approved plans.
4. The owner shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one set of approved plans, profiles, and specifications available at all times when work is being performed.
5. Upon satisfactory completion of the required improvements and after having received verification by the appropriate Town approving authorities, the Town Administrator may recommend the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements of parts thereof. This release shall provide for 10 percent of the total bond to be retained for a period of 12 months after completion of all work. Bond retention period may be extended for an additional 12 months if major failures or deficiencies occur as determined by the Planning Commission. Said retainer shall be for the protection of the Town to cover failures, discrepancies, etc., in the previously approved improvements.
6. The installation of improvements as required in this Article shall in no case serve to bind the Town to accept such improvement for the maintenance, repair, or operation thereof.
7. The Town Council may require that the expense of independent inspection and supervision services during installation be borne by the applicant.

## **Section 42. As-Built Site Plan**

Upon satisfactory completion of required improvements as shown on the approved site plan or a section thereof, the developer shall submit to the Zoning Inspector four (4) copies of the "as built" site plan, certified by the engineer before occupancy of any building, for the review and approval for conformity with the approved site plan. As-built site plan should indicate any deviations from site improvements shown on final approved site plan.

## **Section 43. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled**

Except as otherwise provided in this Ordinance, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this ordinance and all additional requirements imposed pursuant to the issuance of a special exception permit have been complied with.

## **Section 44. Who May Submit Permit Applications**

1. Applications for zoning certificate, special exception, sign permits, other permits, or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
2. The Zoning Inspector shall require an applicant to submit evidence of his/her authority to submit the application in accordance with Subsection 1. whenever there appears to be a reasonable basis for questioning this authority.

## **Section 45. Applications To Be Complete**

1. All applications for zoning certificate, special exception, sign permits, or other permits must be complete before the permit-issuing authority is required to consider the application.
2. Subject to Sections 36 and 40, an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
3. In this Ordinance, detailed or technical design requirements and construction specifications relating to various types of improvements (e.g., streets, sidewalks, etc.) are set forth in specifications adopted by the Town and/or in one or more of the appendices to this ordinance. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the Planning Commission to evaluate the application in the light of the substantive requirements set forth in this text of this Ordinance.

However, whenever this Ordinance requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Town. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII.

4. The presumption established by this Ordinance is that all of the information set forth in the Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Board of Appeals, the applicant may rely in



the first instance on the recommendations of the Zoning Inspector as to whether more or less information than that set forth in the Appendix A should be submitted.

#### **Section 46. Staff Consultation Before Formal Application**

1. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this ordinance, a pre-application meeting between the developer and the Planning Commission is encouraged or required as provided in this section.
2. Before submitting an application for a zoning certificate authorizing a development that consists of or contains a major subdivision, the developer shall submit to the Planning Commission a pre-application concept plan of such subdivision, drawn approximately to scale (1 inch = 100 feet). The concept plan shall contain the information set forth in Appendix A. The applicant will be placed on the agenda for the next available Planning Commission meeting.

#### **Section 47. Staff Consultation After Application Submitted**

1. Upon receipt of a formal application for a zoning certificate, or special exception permit, the Zoning Inspector shall review the application and confer with the applicant to ensure that he understands the Town staff's interpretation of the applicable requirements of this ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
2. If the application is for a special exception permit, the Zoning Inspector shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the Zoning Inspector believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

#### **Section 48. Reserved**

#### **Section 49. Completing Developments In Phases**

1. As a prerequisite to taking advantage of constructing the development in phases, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Ordinance that will be satisfied with respect to each phase or stage.
2. If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the Planning Commission, no land may be

used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

## **Section 50. Expiration of Permits**

1. A copy of the fully executed zoning certificate is delivered to the permit recipient, and delivery is accomplished when the zoning certificate is hand-delivered to the permit applicant; or
2. The Zoning Inspector notifies the permit applicant that the application has been approved and that all that remains before a fully executed zoning certificate can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required.
3. Any permit issued shall be valid for a period of one year from date of issue, provided work is ongoing. An applicant may apply for two six-month extensions as described above as long as the work is progressing. At the expiration of the second six-month extension, the owner/applicant shall apply for a renewal permit.

## **Section 51. Effect of Permit on Successors and Assigns**

1. Certificates of approval, special exception, sign, and other permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable, however, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
  - a. No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and
  - b. The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.
2. Whenever a zoning certificate, special exception, or variance permit is issued to authorize development, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Port Deposit Town Hall and indexed under the record owner's name as grantor.

## **Section 52. Amendments to and Modifications of Permits**

1. Insignificant deviations from the permit (including approved plans) issued by the Board of Appeals or the Zoning Inspector are permissible and the Zoning Inspector may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on

neighboring properties, the general public, the environment or those intended to occupy or use the proposed development.

2. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the Planning Commission, provided such modification(s) do not violate the terms of approval established by the Historic District Commission. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the environment, the general public, or those intended to occupy or use the proposed development.
3. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Appeals, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
4. The Zoning Inspector shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections 1., 2., and 3.
5. A developer requesting approval of changes shall submit a written request for such approval to the Zoning Inspector, and that request shall identify the changes. Approval of all changes must be given in writing.
6. Nothing herein shall exempt anyone from the requirement for review by the Historic District Commission of all changes and/or deviations.

### **Section 53. Reconsideration of Board Action**

1. Whenever the Board of Appeals disapproves an application for a special exception permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board for a period of not less than one year unless the applicant clearly demonstrates that:
  - a. Circumstances affecting the property that is the subject of the application have substantially changed, or
  - b. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Zoning Inspector within the time period for an appeal to the Court (see Section 92). However, such a request does not extend the period within which an appeal must be taken.
2. Notwithstanding Subsection 1., the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

### **Section 54. Maintenance of Common Areas, and Facilities**

The recipient of any zoning certificate, special exception, sign, or other permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the Town. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and require vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

## **Section 55. Records of Zoning Inspector**

The Zoning Inspector shall keep records of all zoning certificates issued under this Ordinance; maintain permanent and current records related to the Ordinance, including zoning maps, amendments, special exceptions, variances, appeals, and planned unit development site plans; and make annual reports and recommendations to the Planning Commission and Town Council on matters pertaining to this Ordinance.

## **Section 56. Structures & Uses as Provided in Bldg Permits, Plans, & Cert of Occ.**

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Town (via the County Building Inspector) authorize only the use, arrangement, and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

## **Section 57. Reserved**

### ***Part II Special Exception Permits***

## **Section 58. Intent**

1. The development and execution of this Ordinance are based upon the division of the Town into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.
2. The intent of this Article is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.
3. The granting of a special exception does not exempt the applicant from complying with all other requirements of this Ordinance or of the law.

## **Section 59. Initiation of Special Exceptions**

Any property owner or other person with an enforceable legal interest in a property may file an application to use such land for one or more of the special exceptions provided in the zoning district in which the land is located.

## **Section 60. Application for Special Exception**

Such application for special exception shall be filed with the Zoning Inspector or Town Administrator on a form prescribed by the Planning Commission. The application shall be accompanied by the application fee, such plans and/or data as necessary, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Inspector to the Planning Commission for recommendation to the Board of Appeals for review within 45 days of receipt of the application by the Zoning Inspector. The Board of Appeals shall, within 60 days of receipt of application from the Zoning Inspector, render a decision on the application.

## **Section 61. Hearing on Application**

1. The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals. The hearing shall be conducted and a record of such proceedings shall be preserved in such a manner as the Board of Appeals shall, by rule, prescribe from time to time.
2. Notice is required as provided in Article VI.

## **Section 62. Authorization**

For each application for a special exception, the Board of Appeals shall normally, within 90 days of receipt of the application, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

## **Section 63. Standards - General**

No special exception shall be approved by the Board of Appeals unless such Board shall find:

1. That the establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, convenience, morals, order or general welfare.
2. That the special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial

depreciation in the property values within the neighborhood. The proposed architecture for buildings shall be reviewed by the Historic District Commission.

4. That adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the Town of Port Deposit.
7. That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific use.
8. Conditions and Guarantees. Prior to the granting of any special exception, the Board of Appeals shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Article XII. In all cases in which special exceptions are granted, the Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such proof shall be filed with the board on or before March 15 of each year. The first filing shall not be made unless and until at least 12 months have elapsed since the date of the grant of the special exception.

#### **Section 64. Effect of Denial of a Special Exception**

No application for a special exception (conditional use) which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Appeals.

#### **Section 65. Complaints**

Notice of complaints received by any representative of the Town concerning the operation of any special exceptions shall be transmitted promptly to the Board which shall take appropriate action as provided by law. The complainant shall be notified of the action taken.

#### **Section 66. Revocation**

1. Failure to Comply with Conditions. Whenever the Board shall find, in case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, the Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and

obtain investigations and reports as to compliance from such Town or state agencies or administrative officers as may be appropriate.

2. Abandonment, etc. Whenever the Board shall determine that a special exception appears to have been abandoned, that an approved special exception is not initiated within one year after the date of approval, that its annual proof referred to above has not been filed within 45 days of its due date, or that all of the terms and conditions of its grant are not being complied with, the Zoning Inspector shall notify the board and the Town attorney's office. Upon receipts of notice of such determination by the Board, the board shall issue an order to show cause why such special exception should not be revoked. Notice thereof shall be given to the party to whom the special exception has been granted and to all parties who would be entitled to receive notice of a new application for special exception concerning the property. The applicant shall have 60 days from the date of written notice of expiration to file an appeal of said notice.

### **Section 67. Standards for Specific Special Exceptions**

Certain buildings, structures, and uses of land developed as special exceptions are of such substantially different character from other special exceptions that they require specific and additional standards to guide the decision of the Board of Appeals. See Article XI for minimum standards for special exceptions.

### **Section 68. Reserved**

### **Section 69. Reserved**

### **Section 70. Reserved**

## **ARTICLE V APPEALS, VARIANCES, INTERPRETATIONS**

### **Section 71. Appeals**

1. An appeal from any final order or decision of the Zoning Inspector, Historic Area Commission, Planning Commission or Town Administrator may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by filing with the Zoning Inspector and the Board of Appeals a written notice of appeal specifying the grounds therefore, and submitting the required fee. A notice of appeal shall be considered filed with the Zoning Inspector and the Board of Appeals when delivered to the Town Administrator, and the date and time of filing shall be entered on the notice by the Zoning Inspector.
2. An appeal must be filed within 30 days after the date of the decision or order appealed from.
3. Whenever an appeal is filed, the Zoning Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record relating to the action appealed from.
4. An appeal stays all actions by the Zoning Inspector seeking enforcement of or compliance with the order or decision appealed from, unless the Zoning Inspector certifies to the Board of Appeals that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Appeals or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Zoning Inspector.
5. The Board of Appeals may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.
6. An appeal from any final order or decision of the Planning Commission or Board of Appeals shall be taken to the Circuit Court in the manner provided by law of Maryland and particularly Land Use Article of the Maryland Annotated Code. The appeal must be filed within 30 days after the date of the decision or order appealed.

### **Section 72. Variances**

1. An application for a variance shall be submitted to the Board of Appeals by filing a copy of the application with the Zoning Inspector in the Town office. Applications shall be handled in the same manner as applications for zoning permits and special exceptions in conformity with the provisions of Sections 45, 46, and 47. When the subject property or structure is located in the Critical Area, a copy of the application shall be provided to the Critical Area Commission.
2. A variance may be granted by the Board of Appeals if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety



and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

- a. If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property,
- b. That special conditions or circumstances exist that are unique to the subject property or structure and that a literal enforcement of the provisions of this Ordinance would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.
  - (1) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public,
  - (2) The hardship relates to the applicant's land, rather than personal circumstances,
  - (3) The hardship is unique, or nearly so, rather than one shared by many surrounding properties,
  - (4) The hardship is not the result of the applicant's own actions, and
  - (5) That strict enforcement of the provisions of this Ordinance would deprive the property owner of rights commonly shared by other owners of property in similar area.
- c. That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Zoning District or the Critical Area Overlay District.
- d. That the variance request is not based upon conditions or circumstances which are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming which are related to adjacent parcels.
- e. That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.
- f. That the proposed variance is consistent with the *Town of Port Deposit Comprehensive Plan*.
- g. The variance will neither result in the extension of a nonconforming situation in violation of Article VIII nor authorize the initiation of a nonconforming use of land.
- h. That the granting of the variance will be in harmony with the general purpose and intent of this ordinance and the Town's Critical Area Program and shall not result in a use not permitted in the zone in which the property subject to variance is located, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

3. The following provisions shall apply to requests for a variance in the Critical Area Overlay:

- a. Applicability. The Board of Appeals has established provisions where, owing to special features of a site or other circumstances, implementation of its program or a literal enforcement of provisions within the program would result in unwarranted hardship to an applicant, a Critical Area Program variance may be obtained. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements for the Critical Area Program contained in this Ordinance. The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:
- (1) Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
  - (2) Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of this Ordinance would result in unwarranted hardship.
  - (3) A literal interpretation of the provisions of this Ordinance and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.
  - (4) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or structures within the Critical Area.
  - (5) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property.
  - (6) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law and this Ordinance.
- b. Applications for a variance will be made in writing to the Board of Appeals with a copy provided to the Critical Area Commission.
- c. Process. After hearing an application for a Critical Area variance, the Board of Appeals shall make written findings reflecting analysis of each standard. The Board of Appeals shall follow its established procedures for advertising and notification of affected land owners. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph (a) above. The

Zoning Inspector n shall notify the Critical Area Commission of the Board's findings and decision to grant or deny the variance request.

- d. Findings. Based on competent and substantial evidence, the Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in paragraph (a) above. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:
  - (1) The applicant;
  - (2) The town or any other government agency; or
  - (3) Any other person deemed appropriate by the Town Administrator.
- e. Conditions and Mitigation. The Board of Appeals may impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of the Critical Area Program is maintained including, but not limited to the following:
  - (1) Impacts resulting from the granting of the variance shall be mitigated by planting on the site per square foot of the variance granted at no less than a three to one basis or as recommended by the Town Administrator in consultation with the Critical Area Circuit Rider.
  - (2) New or expanded structures or impervious surfaces shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, non-tidal wetlands, or steep slopes.
- 4. In granting variances, the Board of Appeals may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. Violations of such conditions, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable as provided in Article VII.
- 5. A variance may be issued for an indefinite duration or for a specified duration only.
- 6. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

### **Section 73. Interpretations**

- 1. The Board of Appeals is authorized to interpret the zoning map and to pass upon disputed questions of lot or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Zoning Inspector, Planning Commission or Town Administrator, they shall be handled as provided in Section 71.

2. An application for a map interpretation shall be submitted to the Board of Appeals by filing a copy of the application with the Zoning Inspector in the Town office. The application shall contain sufficient information to enable the Board to make the necessary interpretation.
3. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
  - a. Boundaries indicated as approximately following the centerline of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline,
  - b. Boundaries indicated as approximately following lot lines, and Town boundary lines shall be construed as following such lines, limits or boundaries,
  - c. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines,
  - d. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map.
  - e. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
4. Interpretations of the location of floodway and floodplain boundary lines may be made by the Zoning Inspector as provided in applicable regulations.

## **Section 74. Requests to Be Heard Expeditiously**

The Board of Appeals shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Article VI, and obtain the necessary information to make sound decisions.

## **Section 75. Burden of Proof in Appeals and Variances**

1. When an appeal is taken to the Board of Appeals in accordance with Section 71, the Zoning Inspector shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
2. The burden of presenting evidence sufficient to allow the Board of Appeals to reach the conclusions set forth in Subsection 72.2., and 72.3 when located within the Critical Area Overlay District, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

## **Section 76. Board Action on Appeals and Variances**

1. With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the Board's decision if supported by a majority of the board's membership (excluding vacant seats).
2. A motion to deny a variance may be made on the basis that any one or more of the seven criteria set forth in Subsection 72.2 and 72.3 when located within the Critical Area Overlay District, are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by a majority of the Board's membership (excluding vacant seats).
3. Postponement of hearings shall be as follows:
  - a. Requests for postponement shall be filed in writing with the Town Administrator not less than 10 days prior to the date of the hearing, and shall be accompanied by a sum of money sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall be at the discretion of the Chairman of the Board.
  - b. Requests for postponement filed later than 10 days prior to the date of a scheduled hearing, shall, in addition to the other requirements set forth in subsection a. above, be supported by an affidavit of the party making the request or some other creditable person. The granting of such request shall be at the discretion of the Board in cases of extreme hardship or upon good cause shown.
  - c. The Board may, upon its own initiative, postpone a scheduled hearing at any time.
4. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.

## **Section 77. Reserved**

## **Section 78. Reserved**

## **ARTICLE VI        HEARING PROCEDURES FOR APPEALS AND APPLICATIONS**

### **Section 79. Hearing Required on Appeals and Applications**

1. Before making a decision on an appeal or an application for a variance, special exception, or a petition from the Planning Commission or Zoning Inspector to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application.
2. Subject to Subsection 3., the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
3. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
4. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.

### **Section 80. Notice of Hearing**

The Zoning Inspector shall give notice of any hearing required by Section 79 as follows:

1. The Zoning Inspector shall publish notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction, or boundary, in at least one newspaper of general circulation in Port Deposit once each week for 2 successive weeks. The first notice of the hearing shall appear in the paper at least 14 days before the hearing.
2. Notice of such hearings shall be posted on the subject property and at the Town Office.
3. Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice before the hearing.
4. The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

### **Section 81. Evidence**

1. The provisions of this section apply to all hearings for which a notice is required by Section 79.
2. All persons who intend to present evidence to the board, rather than arguments only, shall be sworn.

3. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

## **Section 82. Modification of Application at Hearing**

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

## **Section 83. Record**

1. A tape recording or transcribed record prepared by a legal stenographer shall be made of all hearings required by Section 79, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, and a transcript will be made.
2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

## **Section 84. Written Decision**

1. Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
2. In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.

## **Section 85. Reserved**

## **Section 86. Reserved**

## **ARTICLE VII ENFORCEMENT AND REVIEW**

Certificates of approval, building permits or certificates of occupancy issued on the basis of plans and applications approved by the Planning Commission authorize only the use, arrangement and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

### **Section 87. Complaints Regarding Violations**

Whenever the Zoning Inspector receives a written, signed complaint alleging a violation of this ordinance, or a verbal complaint (noted in the record of the alleged violation by the Inspector) he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

### **Section 88. Persons Liable**

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

### **Section 89. Procedures upon Discovery of Violations**

1. If the Zoning Inspector finds that any provision of this ordinance is being violated, he shall immediately (preferably within 30 days) send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Zoning Inspector's discretion.
2. The final written notice (and the initial written notice may be the final notice) shall state what action the Zoning Inspector intends to take if the violation is not corrected and shall advise that the Zoning Inspector's decision or order may be appealed to the Board of Appeals in accordance with Section 71.
3. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the Zoning Inspector may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 90.

### **Section 90. Penalties and Remedies for Violations**

1. It shall be considered a municipal infraction for any person or corporation to violate any provision of this Ordinance, or to erect, construct, alter or repair, convert, or maintain any building or structure, sign, or land in violation of any written statement or plan submitted and approved hereunder.
2. It shall be considered a municipal infraction for any owner, tenant, or occupant of a building, structure, sign or land or part thereof, which is in violation of this Ordinance, or any



architect, builder, contractor, subcontractor, agent, servant, person or corporation, knowingly to assist or further the commission of any violation of this Ordinance. There shall be a rebuttable presumption that the defendant was violating the Ordinance knowingly.

3. In the event that any person is found to have committed a municipal infraction hereunder, each infraction shall be punishable by a fine of up to \$1,000.00 for each single violation. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation or in the alternative to permit the Town to abate the violation at the defendant's expense.
4. The authority for municipal infractions is as provided in - Local Government Article §6 of the Annotated Code of Maryland and enforcement shall be as provided therein. In addition and/or in lieu of pursuing a municipal infraction, the Town may seek injunction relief as a means of enforcing the provisions of this Ordinance.
5. In addition to the penalties and remedies provided above, any site or structure demolished without proper permit in violation of this Ordinance shall be ineligible for any zoning certificates and/or building permits (Article IV Development Approval) for the erection or rebuilding of the building or structure for a period of five (5) years from the date of such demolition. Upon expiration of the five year period the owner of such site or structure may make application for a zoning certificate and/or building permit in accordance with Article IV, Development Approval, of the Port Deposit Zoning Ordinance.

## **Section 91. Permit Revocation**

1. A zoning certificate, sign, or special exception permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing board.
2. Before a special exception permit may be revoked, all of the notice and hearing and other requirements of Article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
  - a. The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in Subsection 1. shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
  - b. A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
3. Before a zoning certificate or sign permit may be revoked, the Zoning Inspector shall give the permit recipient 10 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Inspector shall provide to the permittee a written statement of the decision and the reasons therefor.

4. No persons may continue to make use of land or buildings in the manner authorized by any zoning certificate, sign, or conditional-use permit after such permit has been revoked in accordance with this section.

## **Section 92. Judicial Review**

1. Every decision of the Board of Appeals shall be subject to review by the Circuit Court.
2. The petition must be filed with the Court within 30 days after the later of the following occurrences:
  - a. A written copy of the Board's decision (see Section 84) has been filed in the Town office, and
  - b. A written copy of the Board's decision (see Section 84) has been delivered by mail to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

## **Section 93. Reserved**

## **Section 94. Reserved**

## **Section 95. Reserved**

## **ARTICLE VIII NONCONFORMING SITUATIONS**

### **Section 96. Intent**

This Ordinance establishes separate districts, each of which is an appropriate area for the location of the uses that are permitted in that district. It is necessary and consistent with the establishment of these districts, that nonconforming buildings, structures, and uses, substantially and adversely affecting the orderly development and taxable value of other property in the district be permitted to continue only with restrictions as herein contained. The purpose of this Article is to provide for the restrictions of nonconforming buildings, structures, and uses, and to specify those circumstances and conditions under which those nonconforming buildings, structures, and uses shall be permitted to continue.

### **Section 97. Definitions**

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

**Dimensional Nonconformity.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**Effective Date of This Ordinance.** Whenever this article refers to the effective date of this ordinance, the reference shall be deemed to include the effective date of any amendments to this ordinance if the amendment, rather than this ordinance as originally adopted, creates a nonconforming situation.

**Nonconforming Lot.** A lot existing at the effective date of this ordinance (and not created for the purposes of evading the restrictions of this ordinance) that does not meet the minimum area requirement of the district in which the lot is located.

**Nonconforming Project.** Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

**Nonconforming Sign.** A sign (see definition) that, on the effective date of this ordinance does not conform to one or more of the regulations set forth in this ordinance, particularly Article XVI.

**Nonconforming Use.** A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use). The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

**Nonconforming Situation.** A situation that occurs when, on the effective date of this ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the

regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, or because land or buildings are used for purposes made unlawful by this ordinance. Nonconforming signs shall not be regarded as nonconforming situations for purposes of this article but shall be governed by the provisions of Article XV.

## **Section 98. Cont. of Nonconforming Situations & Comp. of Nonconforming Projects**

1. Unless otherwise specifically provided in this ordinance and subject to the restrictions and qualifications set forth in Sections 99 through 104, nonconforming situations that were otherwise lawful on the effective date of this ordinance may be continued.
2. Nonconforming projects may be completed only in accordance with the provisions of Section 104.

## **Section 99. Nonconforming Lots**

1. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth herein, then the lot may be used as proposed just as if it were conforming. However, no use that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.
2. When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the Zoning Inspector may recommend that the Planning Commission allow deviations from the applicable setback requirements if it finds that:
  - a. The property cannot reasonably be developed for the use proposed without such deviations.
  - b. These deviations are necessitated by the size or shape of the nonconforming lot, and
  - c. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.
3. For purposes of Subsection 2., compliance with applicable building setback or build-to requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
4. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no principle building upon it or if there is a principle building upon it which is physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by a duly authorized official

to be unsafe or unlawful by reason of physical condition. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 102.

5. If, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

## **Section 100.           Extension or Enlargement of Nonconforming Situations**

1. Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
  - a. An increase in the total amount of space devoted to a nonconforming use, or
  - b. Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking requirements.
2. Subject to Subsection 4., a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 104, a nonconforming use may not be extended to additional buildings or to land outside the original building.
3. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.
4. Notwithstanding Subsection 1., any structure used for single-family residential purposes and maintained as a nonconforming residential use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback, build-to and parking requirements. This paragraph is subject to the limitations stated in Section 103.
5. A nonconforming structure may be altered to decrease its nonconformity.

6. Notwithstanding Subsection 1., whenever:
  - a. there exists a lot with one or more structures on it, and
  - b. a change in use that does not involve any enlargement of a structure is proposed for such lot, and
  - c. the parking or loading requirements of Article XVI that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation.

However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Article XVI if:

- a. parking requirements cannot be satisfied on the lot with respect to which the permit is required; and
- b. such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning certificate or special- or conditional-use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

## **Section 101.       Repair, Maintenance, Reconstruction**

1. Minor repairs to, improvements that do not increase nonconformity, and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 25 percent of the appraised valuation of the structure to be renovated may be done only in accordance with a zoning permit issued pursuant to this section.
2. For purposes of Subsections 1:
  - a. The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
  - b. The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections 1. or 2. by doing such work incrementally.
  - c. The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of increase in the consumer price index since the last date of valuation, or the valuation determined by a professionally recognized property appraiser.
3. The Zoning Inspector shall issue a permit authorized by this section if he/she finds that, in completing the renovation or repair work:
  - a. No violation of Section 100 will occur, and

- b. The permittee will comply to the extent reasonably possible with all provisions of this ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

4. If a nonconforming structure or use shall have been destroyed or damaged by fire, explosion or other catastrophe, such building or use may be rebuilt or restored and used again as previously. Such rebuilding or restoring shall be completed within twenty-four (24) months after such catastrophe. and the building as restored shall not be greater in volume, lot coverage, or floor space, and if the yard requirements are not met shall not extend

## **Section 102. Change in Use of Property Where a Nonconforming Situation Exists**

1. A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new zoning or special-use permit in accordance with Section 36., may not be made except in accordance with Subsections 2. through 4. However, this requirement shall not apply if only a sign permit is needed.
2. If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this ordinance applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this ordinance is achieved, the property may not revert to its nonconforming status.
3. If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this ordinance applicable to that use cannot reasonably be complied with, then the change is permissible if the Planning Commission approves the change and the Zoning Inspector issues a permit authorizing the change. This permit may be issued if the Planning Commission finds, in addition to any other findings that may be required by this ordinance, that:
  - a. The intended change will not result in a violation of Section 100, and
  - b. All of the applicable requirements of this ordinance that can reasonably be complied with will be complied with. Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to

this subsection to construct a building or add to an existing building if additional nonconformities would thereby created.

4. If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the Planning Commission approves the change and the Zoning Inspector issues a zoning certificate authorizing the change. The Zoning Inspector may issue the permit if the Planning Commission finds, in addition to other findings that may be required by this ordinance, that:
  - a. The use requested is one that is permissible in some zoning district with a zoning or special-use permit, and
  - b. All of the conditions applicable to the permit authorized in Subsection 3. of this section are satisfied, and
  - c. The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

### **Section 103.           Abandonment and Discontinuance of Nonconforming Situation**

1. When a nonconforming use is (a) discontinued for a consecutive period of 90 days, or (b) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.
2. If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (a) discontinued for a consecutive period of one year, or (b) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the Planning Commission approves issuance of a zoning certificate to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the Planning Commission finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The zoning certificate shall specify which nonconformities need not be corrected.
3. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for one year shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.



4. When a structure or operation made nonconforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the one-year period for purposes of this section begins to run on the effective date of this ordinance.

#### **Section 104. Completion of Nonconforming Projects**

1. Construction may be begun and/or completed under the terms of a building permit issued prior to the effective date of this section, if such permit was in force and fully valid on that date. Such construction is subject to:
  - a. All terms of the permit;
  - b. The ordinance under which it was issued; and
  - c. If applicable, the provisions of subsection 4.
2. Any of the following pending matters filed prior to the effective date of this section shall be processed and/or decided in accordance with the ordinance in effect on the date on which the particular matter was filed:
  - a. Applications for zoning certificate or building permit;
  - b. Applications for approval of a subdivision or site plan approval, if such application received preliminary approval by the Planning Commission prior to the effective date of this section; and
  - c. Any matters pending before the Board of Appeals on appeal or by way of application for a special exception.
3. A project may be begun and/or completed in accordance with final site plan or final subdivision plat approval given prior to the effective date of this section and in accordance with a final approval given to a preliminary site plan or a preliminary subdivision plat in accordance with subsection 2.b, under the terms of the ordinance governing such approval. However, any such final approval shall expire at the later of:
  - a. One year from the effective date of this section, or
  - b. One year from the date of final approval.
4. With respect to any building permit or pending matters referred to in subsection 1, 2, and 3, nothing in this section shall be construed:
  - a. To affect the status of any use or structure involved in any such permit, application, approval or pending matter as a nonconforming use or structure under this Ordinance;
  - b. To extend, enlarge or otherwise affect the provisions of any prior ordinance relating to the duration, expiration or termination of any such permit, application, approval or pending matter; or

- c. To revive or give any other effect to any permit, application, approval or pending matter which has been, or is hereafter deemed to be, abandoned or terminated under the provisions of this Ordinance or any prior ordinance which is applicable.

5. Extensions.

- a. On written application of the owner prior to the expiration of any permit, approval or other authorization, the Planning Commission may grant one year extensions of time to complete the undertaking or project authorized by any permit, approval, or other authorization it has granted. Nothing in this section shall limit the number of extensions the Planning Commission may grant.
- b. The Planning Commission may grant an extension for any permit, approval or other authorization if it determines that the owner has diligently proceeded with development of the undertaking or project.

**Section 105. Grandfathered**

The Town shall apply the standards of this Ordinance that exist at the time a zoning certificate, building, sign and other permits are issued and remain valid as per Article IV, Section 50 of this Ordinance.

**Section 106. Reserved**

**Section 107. Reserved**

## **ARTICLE IX        ZONING DISTRICTS**

### ***Part 1   Zoning Districts***

#### **Section 108.        Districts Established**

1. The incorporated area of the Town of Port Deposit shall be divided into (7) general zoning districts:

- R-1     - Single Family Residential District
- RM     - Single Residential District
- R-2     - Mixed-Use Residential District
- TR     - Town Residential District
- CBD    - Central Business District
- MC     - Marine Commercial District
- C-1     - Town Commercial District
- B&I    - Business & Industrial Employment District

2. In addition to the general district described above, the Zoning Ordinance provides for the following special districts:

- HO     - Historic District Overlay District
- CA     - Critical Area Overlay District
- FO     - Floodplain Overlay District

The districts shall be established to regulate and restrict the location of residences, trades, industries, and buildings erected or altered for specific uses; to regulate and limit the height and bulk of buildings hereafter erected or structurally altered; to regulate and limit population density and the intensity of the use of lot areas; to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings; and the implement the recommendations of the Port Deposit Comprehensive Plan and the Port Deposit Critical Area Program.

#### **Section 109.        General Districts - Purpose**

1. R-1 Single Family Residential District

The purpose of the R-1 Single Family Residential district is to provide for low density single-family residential development of town-scale character, together with such public buildings, schools, churches, public recreational facilities and accessory apartment uses, as may be necessary or are normally compatible with residential surroundings. The regulations are intended to provide for a pleasant, quiet, hazard free residential environment permitting residential and related uses.

2. RM Single Family Residential District

The purpose of the RM, Single Family District is similar to that of the R-1 that is to create and maintain stable residential neighborhoods. In addition, this district specifically provides for affordable housing alternatives, namely manufactured homes, in areas where the impact this type of housing on the historic character of the Town are minimized.

### 3. TR Town Residential District

The purpose of the TR, Town Residential District is to conserve the low-density, residential character of the Town, and preserve the integrity of existing neighborhoods, while providing for low impact neighborhood commercial uses and accessory apartments. Commercial uses, such as ground floor retail and small offices that are compatible in scale and support residential needs of the community are permitted and encouraged in the district.

### 4. R-2 Mixed-Use Residential

The purpose of the R-2, Mixed-Use Residential District is to provide for higher density residential development. Town-homes, multi-family residences, and accessory apartments are encouraged in this district. Limited neighborhood commercial uses are permitted. The purpose of the Mixed-Use Residential district is to make the best use of existing infrastructure such as roads, water, and sewer.

### 5. Central Business District

The purpose of the Central Business District is to provide and maintain a concentration of retail and office development and redevelopment within the Central Business District of the Town with reduced off-street parking requirements in recognition of the practical difficulty of providing off-street parking in the central business district, and in recognition of the collective responsibility to provide off-street parking for smaller establishments.

Development/redevelopment in this district shall be compatible with the existing historic, aesthetic, and pedestrian character of the downtown area in terms of scale and design. Upper-story residential uses and accessory apartments are also appropriate in this district in order to support ground floor commercial uses in commercial structures.

It is the general intent of the Central Business District to:

- a. Promote revitalization in the Central Business District by encouraging the re-use of existing historic structures and facilitating new development on vacant, bypassed and underutilized land where such development is found to be compatible with the existing neighborhood.
- b. Encourage efficient use of land and public services.
- c. Stimulate economic investment and development.
- d. Provide developers and property owners flexibility so that they can achieve high quality design and develop infill projects that contribute to the Central Business District.
- e. Maintain a high quality neighborhood compatible with the historic community environment.

- f. Improve approval certainty for infill development by providing clear development standards.
- g. Encourage compact development that is pedestrian-scaled.

The district standards encourage appropriate development of properties with design standards that promote compatible infill and redevelopment.

## 6. C-1 Town Commercial District

The purpose of the Town Commercial District is to provide areas with good access to main highways for development of commercial businesses and services serving the community and the region.

## 7. MC Marine Commercial District

The purpose of Maritime Commercial is to insure the orderly and efficient use of the waters and water oriented land use of the Town of Port Deposit, through the provision of a uniform method of regulating marinas and related water oriented commercial uses in order to minimize the adverse impacts of intensive water oriented land uses and concentrations of watercraft and vehicles on navigation, the environment and the health, safety and welfare of the general public. The district provides for such uses as marinas, piers, launching ramps, yacht clubs, dry and wet storage of seaworthy watercraft, service, sales and repairs of watercraft and accessories, waterfront residential uses, and waterfront commercial uses. It is also the intent of this district to maximize public waterfront access.

## 8. B & I Business and Industrial Employment District

### 1. Intent.

The intent of the B & I Employment District is to provide locations for warehouse storage, distribution and fulfillment center, business/professional offices, research and development, and certain light industrial uses similar thereto which require large areas, truck traffic, and are of an intensity that is not compatible with dense zones and residential areas. For the most part, these industrial activities include the processing or assembly of previously processed materials. This district also provides for various special exception uses subject to the Board of Appeals process for uses which are consistent with the zone, but require extra review and scrutiny to determine their compatibility that the neighborhood and any conditions that must be placed on the use to ensure its harmony with the neighboring properties and community. This zone is intended to permit less outwardly intensive uses, activities and establishments similar to those listed in Section 6.

### 2. Performance Standards

If, in the opinion of the Zoning Administrator, any proposed industrial use could create a fire hazard, carcinogenic, radiation or health hazard, emit smoke, noise, odor or dust or could produce other results that could be obnoxious or detrimental to other properties either because of the productive process or the suitability of the site, the Zoning Administrator shall refer the proposed use to the Board of Appeals. The Board shall determine if any of these conditions would or would not be created by the proposed use. If the Board determines that any of these conditions would

be created it shall require assurances, by means of special design of the structure or processing procedures or equipment, that the detrimental conditions will not be created. The Board may require the posting of sufficient bond, with corporate surety, or such other assurances that it may deem satisfactory to guarantee that those conditions will not be created or, if created, will be eliminated.

### 3. General Requirements.

In determining whether to approve or disapprove a major site plan or subdivision in the B & I Employment District, the Planning Commission shall consider the following:

- a. The impact of the proposed development on existing or planned public services, facilities, and infrastructure;
- b. The impact of the operation of the proposal on the surrounding area with special consideration to neighboring residential uses or zoning;
- c. The effect and/or influence the proposal might have on the health, safety, and welfare of the residents and employees of the neighborhood.

Modifications to the Town of Port Deposit standards and requirements will be considered by the Planning Commission on a case by case basis dependent upon the site plan and related operations information presented during the process.

### 4. Definitions

**Cargo Container** – An enclosed, reusable vessel (with doors for loading and unloading), designed without an axle or wheels, which was originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, and/or designed for or capable of being mounted or moved by trains, trucks, ships or other modes of transportation. This definition shall also include box-like containers used for storage of personal or business items. The definition shall not include sheds.

**Cargo Container Maintenance Facility** – Any business that engages in the maintenance and repair of cargo containers, not located within a storage facility that removes the containers from the chassis. This may include facilities or operations engaged in the conversion of cargo containers for secondary use or sale.

**Cargo Container Storage Facilities** – Any site which the principal use is the movement, storage on a non-permanent basis, staging or redistribution of cargo containers.

**Data Center** - A use where digital information is processed, transferred, and/or stored, occupying 10,000 square feet or more, where the majority of space is occupied by computers, servers, telecommunications and related equipment (including supporting equipment).

**Distribution Facility** - An establishment that distributes and stores goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

Light Industry - Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building.

Offices - Offices for the use of physicians, optometrists, dentists, attorneys, architects, surveyors, engineers, insurance agents, accountants, stockbrokers, commodity brokers, real estate brokers, general services and employment agencies.

Power Generating Facilities - Power generating facilities may be permitted as a Special Exception provided that the power is generated solely from solar, wind, natural gas, or water power sources.

Truck Terminal – A structure or land used or intended to be used primarily to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types in order to facilitate the transportation of such goods or chattels or for truck or truck-trailer parking or storage. The term “Truck Terminal” includes facilities for the storage of cargo-shipping containers designed to be mounted on chassis for part or all of their transport.

Warehouse - A structure in which goods, materials, or other items are stored for compensation for a period of time pending transfer or sale.

## 5. Uses

- a. Cargo container maintenance or storage facility.
- b. Data centers.
- c. Building and structures related to electric power, gas transmission & telecommunications, or distribution thereof may be permitted as a Special Exception.
- d. Light Industry, as defined.
- e. Offices.
- f. Power generating facilities may be permitted as a Special Exception provided that the power is generated solely from solar, wind, natural gas, or water power sources.
- g. Truck Terminal.
- h. Warehouse.
- i. Distribution Facility.

## 6. Uses Prohibited

The uses prohibited below include, but are not limited to:

- a. Residential dwellings.
- b. Manufacturing uses involving asphalt, hot mix, asphalt bituminous concrete, charcoal, and fuel briquettes.
- c. Manufacturing uses involving primary production of the following products from raw materials: chemicals: aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, creosote, hydrogen and oxygen, industrial alcohol, nitrates (manufactured and natural) of an explosive nature, potash, plastic and synthetic resins, pyroxylin, rayon yarn, and hydrochloric, nitric, phosphoric, picric, and sulphuric acids; coal, coke, and tar products, including gas manufacturing; explosives; synthetic fertilizers; gelatin, glue, and size (animal); linoleum and oil cloth; matches; paint, varnishes, and turpentine; rubber (natural and synthetic); soaps, including fat rendering; and starch.
- d. The following processes: nitrating of cotton or other materials; magnesium foundry; reduction, refining, smelting, and alloying of metal or metal ores; refining secondary aluminum; refining petroleum products, such as gasoline, kerosene, naphtha, and lubricating oil; distillation of wood or bones; and chemical reduction and processing of wood pulp and fiber, including papermill operations and recycling centers.
- e. Operations involving stockyards and slaughterhouses.
- f. Storage of explosives.
- g. Quarries, stone crushers, screening plants, and storage of quarry screenings, accessory to such uses.
- h. Junkyards, automobile dismantling plants or storage of used parts of automobiles or other machines or vehicles or of dismantled or junked automobiles.
- i. Rubble or sanitary landfill
- j. Accessory uses shall not be permitted without a principal use.

## 7. Standards

The following standards will apply to this zoning district and are subject to approval by the Planning Commission. The Planning Commission may impose additional standards due to the nature and location of the proposed use to preserve and protect the character and safety of the Community. Consideration for flexibility within the below provided standards may be considered by the Planning Commission on a case by case basis:

- a. There is no outdoor storage. All goods and equipment must be in a fully enclosed building, storage container or truck trailer and cannot be stacked.
- b. The minimum parcel size shall be five (5 acres).



- c. The minimum building setbacks are:
  - (1) Building setback shall be three hundred (300) feet from a State highway unless a screening plan is approved by the Planning Commission.
  - (2) Front, side and rear setbacks shall be fifty (50) feet when adjacent to a business or industrial zone.
  - (3) Setbacks for parking areas shall be thirty (30) feet from all roadways.
- d. The maximum building coverage of the entire parcel is fifty (50) percent.
- e. The maximum height of the buildings shall be seventy-five (75) feet when adjacent to a business or industrial zone and maximum building height shall be fifty-five (55) feet when adjacent to a residential zone unless additional height is approved by the Planning Commission.
- f. All new distribution utility lines shall be underground except relocation of existing lines. Overhead pole distribution utility lines may be approved by the Planning Commission.
- g. Any building façade visible from adjacent properties or public streets shall incorporate a differentiation that breaks the mass of the façade every two-hundred fifty (250) feet, except for office buildings which shall be every one hundred (100) feet, by changes in at least two of the following design elements, but no more than three: building height, building step-back or recesses (minimum two and half feet), fenestration, materials, pattern, texture, color, or use of accent materials to be approved by the Planning Commission.
- h. All ground level and rooftop mechanical equipment and all electrical equipment, electrical yards, or electrical switching stations shall be screened from adjacent properties and public streets by one of the following: solid fencing, parapet walls, landscaping buffer or other screening to be approved by the Planning Commission.
- i. Pedestrian Plan shall be approved by the Planning Commission.

## 8. Parking standards

- a. Truck terminals, warehouse and distribution facilities - one (1) space for each two hundred fifty (250) square feet of office area and one (1) space for each two (2) employees in the largest shift, or one (1) space per ten thousand (10,000) square feet of gross floor area, whichever is greater.

## 9. Additional Standards

- a. Additional Standards, including but not limited to, Article XIV Utilities, Article XV Signs, Article XVI Parking and Article XVII Screening, Shading, Forest Conservation and Environment shall be applicable as stated in Zoning Code of the Town, or as otherwise determined by the Planning Commission based on the nature and intensity of the use.

- b. Modifications to these standards will be considered by the Planning Commission on a case by case basis dependent upon the site plan related information presented.

## ***Part II Special Districts***

**Section 110.       Reserved**

**Section 111.       Reserved**

**Section 112.       Reserved**

## ***Part III Historic Overlay District***

**Section 113.       Historic Districts**

The Historic Overlay District Areas are shown on the Official Zoning Map for Port Deposit.

**Section 114.       Authority**

The Mayor and Council of the Town of Port Deposit derives authority for this ordinance by virtue of its conformance with provisions of the State of Maryland Enabling Act for Historic Area Zoning (Title 8, Land Use Article, Annotated Code of Maryland, as amended).

**Section 115.       Purpose**

1. The preservation of sites, structures, and districts of historical, archeological, or architectural significance together with their appurtenances and environmental settings is a public purpose in the Town of Port Deposit.
2. It is the further purpose of this article to preserve and enhance the quality of life and to safeguard the historical and cultural heritage of the Town of Port Deposit by preserving sites, structures, or districts which reflect elements of cultural, social, economic, political, or archeological history; to strengthen the local economy; to stabilize and improve property values of such sites, structures, or districts; to foster civic beauty; and to promote the preservation and appreciation of such sites, structures, and districts for the education and welfare of the residents of the Town of Port Deposit.

**Section 116.       Definitions**

For the purposes of the Historic Area Overlay District, the following words and phrases shall have the meanings respectively ascribed to them:

1. Alteration shall mean any exterior change that would affect the historic, archeological, or architectural significance of a designated site or structure, any portion of which is visible or intended to be visible from a public way, including, but not limited to, construction, reconstruction, moving, or demolition.
2. Appurtenances and environmental setting shall mean all that space of grounds and structures thereon which surrounds a designated site or structures and to which it relates physically or visually. Appurtenances and environmental settings shall include, but not be limited to,

walkways and driveways (whether paved or not), trees, landscapes, pastures, croplands, waterways, open space, setbacks, parks, public spaces, and rocks.

3. Certificate of Appropriateness shall mean a certificate issued by the Historic Area Commission indicating its approval of plans for construction, alteration, reconstruction, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated preservation district.
4. Demolition by Neglect shall mean any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated preservation district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:
  - a. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
  - b. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.
5. Historic District shall mean a significant concentration, linkage, or continuity of sites, structures, or objects united historically, architecturally, archeologically, or culturally by plan or physical development. A historic district shall include all property within its boundaries as defined and designated by the Mayor and Town Council. Historic District areas are shown on the official map series of Port Deposit.
6. Exterior features shall mean the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs, or similar items found on or related to the exterior of an historic structure.
7. Landmarks shall mean any designated site or structure outside the boundaries of a preservation district that is of exceptional historic, archeological, or architectural significance.
8. Reconstruction shall mean the process of reproducing by new construction the exact foundation and detail of a vanished structure, or part thereof, as it appeared at a specific period of time.
9. Restoration shall mean the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period.
10. Site shall mean the location of an event of historic significance or a structure, whether standing or ruined which possesses historic, architectural, archeological, or cultural significance.

11. Structure shall mean a combination of material to form a construction that is stable, including but not limited to buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tank and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way. The term "structure" shall be construed as if followed by the words, "or part thereof."

## **Section 117. Historic Area Commission**

1. **Historic Area Commission.** The Town of Port Deposit hereby creates a commission to be called the Port Deposit Historic Area Commission (may be referred to as HAC).
2. **Membership.** The Historic Area Commission may consist of more than seven but no fewer than five members appointed by the Mayor and Town Council. A majority of the members of the Historic Area Commission shall be residents of the Town. Each member shall possess a demonstrated special interest, specific knowledge, or professional or academic training in such fields as history, architecture, architectural history, planning, archeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design, or related disciplines. Non-resident appointees to the Historic Area Commission must possess professional or academic qualifications as further defined in paragraph C of this subsection. At least two (2) members of the Historic Area Commission shall possess professional or academic training in one or more of the above-listed fields in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61.
3. **Historic Area Commission Membership Qualification Criteria.** The requirements for Commission membership under the category of demonstrated special interest may be satisfied either by formal training in one or more of the fields listed in paragraph B of this subsection or active membership in a preservation-related organization. The requirements for membership under the category of specific knowledge may be satisfied by formal post secondary education, employment or practical experience in one or more of the above listed fields. The requirement for Historic Area Commission membership under the category of professional or academic training may be satisfied by, at a minimum, two year's experience as a professional or a Bachelor's degree in one or more of the above-listed fields.
4. **Terms.** Historic Area Commission members shall be appointed for terms of three (3) years, except that the terms of the initial appointments shall be staggered so that three (3) members shall serve terms of three (3) years, two (2) members shall serve terms of two (2) years, and two (2) members shall serve terms of one (1) year so that not more than three (3) appointments shall expire in a given year. Historic Area Commission members may be reappointed.
5. **Historic Area Commission Officers.** The Historic Area Commission shall elect, from its membership, a Chairperson and Vice Chairperson. The Chairperson and Vice Chairperson shall serve for one (1) year terms and shall be eligible for reelection.

6. Vacancy. Any vacancy in the membership of the Historic Area Commission caused by the expiration of a term, resignation, death, incapacity to discharge duties, removal for cause, or any other reason, shall be filled for a new term, or for the remainder of the term for which there is a vacancy, as the case may be, in the same manner as provided herein for the appointment of the initial members of the Historic Area Commission. Any vacancy on the Historic Area Commission shall be filled by the appointing authority within sixty (60) days. In the case of expiration of term, a member may continue to serve until the member's successor is appointed. Unexcused absence at three (3) consecutive meetings shall constitute resignation by the member and shall create a vacancy.
7. Removal for Cause. A member may be removed from the Historic Area Commission for cause, upon written charges, and after a public hearing, by the Mayor with the consent and approval of the Town Council.
8. Compensation. Historic Area Commission members shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties, provided said expenses are permitted by the budget and approved in advance by the Mayor and Council.
9. Meetings. The Historic Area Commission shall hold such regular meetings and hearings as necessary to discharge its duties.
10. Staff. Consistent with the Town's policies and procedures, employees may be assigned to the Historic Area Commission, and such services and facilities shall be made available as the Town deems necessary or appropriate for the proper performance of its duties.

## **Section 118. Powers and Duties**

The Historic Area Commission shall have the following powers and duties:

1. To direct studies, reports, and surveys to identify historical, archeological, or architecturally significant sites, structures, and districts that exemplify the cultural, social, economic, political, or architectural history of the town, state, or nation;
2. Consistent with the Town's charter, ordinances, resolutions, local public law, policies and procedures regarding the acceptance and use of gifts by public officials, to accept and use gifts for the exercise of its functions;
3. To prescribe appropriate rules and regulations for transaction of its business;
4. To adopt rehabilitation and new construction design guidelines and criteria for construction, alteration, reconstruction, moving, and demolition of designated landmarks, sites, structures, and districts which are consistent with the Secretary of the Interior's Standards for Rehabilitation. Guidelines may include design characteristics intended to meet the needs of particular types of sites, structures, and districts, and may identify categories of changes that, because they are minimal in nature, do not affect historic, archeological, or architectural significance, do not require review by the Historic Area Commission.

5. Consistent with the Town's charter, ordinances, resolutions, local public law, policies and procedures governing the acquisition of easements, to accept or otherwise acquire historic preservation easements on designated landmarks, structures, or sites and, when deemed appropriate by the Historic Area Commission, sites or structures located in, or adjacent to, a designated district; and
1. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or the implementation of the purpose of this article.
2. The Historic Area Commission may delegate authority for review and approval actions to the Town Administrator and/or Zoning Inspector as deemed appropriate.

## **Section 119. Designation**

1. Designation. The Mayor and Town Council of Port Deposit may designate boundaries for landmarks, sites, structures, or districts of historic, archeological, or architectural significance consistent with adopted criteria for such designation.
2. Designation Procedure. The Historic Area Commission may, after making full and proper study, recommend any area within the limits of the Town for designation as a landmark, site, structure, or district of historic, archeological, or architectural significance. The Historic Area Commission may also recommend boundaries for such landmarks, sites, structures or districts. The recommendations shall be submitted to the Mayor and Town Council for approval or disapproval.

## **Section 120. Application for Cert of Appropriateness and Commission Review**

1. Application for Certificate of Appropriateness. Before the construction, alteration, reconstruction, moving, or demolition is undertaken of a designated landmark, site, or structure, or site or structure within the Historic Overlay District or Historic Tome School District, if an exterior change is involved which would affect the historic, archeological, or architectural significance of a designated landmark, site, or structure, or structure within the Historic Overlay District or Tome School District, any portion of which is visible or intended to be visible from a public way; the person, individual, firm, or corporation proposing to make the construction or change shall file an application for a Certificate of Appropriateness with the Zoning Inspector for permission to construct, alter, reconstruct, move, or demolish the landmark, site, or structure. Every application meeting the requirements of this Article shall be referred to and considered by the Historic Area Commission and accepted or rejected by the Historic Area Commission. An application which is identical to a rejected application may not be resubmitted within a period of one year after the rejection. No Certificate of Appropriateness or subsequent building permit required for work as provided in this section shall be approved until the Historic Area Commission has acted thereon as hereinafter provided.
2. Application Review.

- a. In reviewing applications, the Historic Area Commission shall give consideration to the historic, archeological, or architectural significance of the landmark, site, or structure, or structure and its relationship to the historic, archeological, or architectural significance of the surrounding area; the relationship of the exterior architectural features of a landmark or structure to the remainder of the landmark or structure and to the surrounding area; the general compatibility of proposed exterior design, scale, proportion, arrangement, texture, and materials to the landmark, site or structure and to the surrounding area; and any other factors including aesthetic factors which the Historic Area Commission deems to be pertinent.
- b. The Historic Area Commission shall consider only exterior features of a landmark or structure and shall not consider any interior arrangements.
- c. The Historic Area Commission shall not disapprove an application except with respect to the several factors specified in paragraph (1) above.
- d. The Historic Area Commission shall be strict in its judgment of plans for sites or structures determined by research to be of historic, archeological, or architectural significance. The Historic Area Commission shall be lenient in its judgment of plans for sites or structures of little historic, archeological, or architectural significance, or of plans involving new construction, unless in the Historic Area Commission's judgment such plans would seriously impair the historic, archeological, or architectural significance of surrounding sites or structures. The Historic Area Commission is not required to limit construction, reconstruction, or alteration to the architectural style of any one (1) period.
  - (1) If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure or for the moving or demolition of a structure, the preservation of which the Historic Area Commission considers to be of unusual importance to the Town of Port Deposit, Cecil County or of unusual importance to the State or the nation, the Historic Area Commission shall attempt to formulate an economically feasible plan with the owner(s) of the site or structure for the preservation of the site or structure. Unless the Historic Area Commission is satisfied that the proposed construction, alteration, or reconstruction will not materially impair the historic, archeological, or architectural significance of the site or structure, the Historic Area Commission shall reject the application, filing a copy of its rejection with the administrative official.
  - (2) If an application is submitted for construction, reconstruction, or alteration, or for the moving or demolition of a site or structure that the Historic Area Commission considers to be of unusual importance and no economically feasible plan can be formulated, the Historic Area Commission shall have ninety (90) days, from the time it concludes that no economically feasible plan can be formulated, to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.

In the case of a site or structure considered to be valuable for its historic, archeological, or architectural significance, the Historic Area Commission may approve the proposed construction, reconstruction, alteration, moving, or demolition despite the provisions of Section 2(e)(1) of this Article if:

- (i) The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the Town;
  - (ii) Retention of the site or structure would cause undue financial hardship to the owner; or
  - (iii) Retention of the site or structure would not be in the best interests of a majority of persons in the Town.
3. Historic Area Commission Decision. The Historic Area Commission shall file with the Zoning Inspector a Certificate of Appropriateness certifying its approval, modification, or rejection of each application and plans submitted to it for review. Work shall not be commenced on any project until such a Certificate of Appropriateness has been approved, and the designated agency shall not issue a building permit for such changes or construction unless it has received a Zoning Certificate. The failure of the Historic Area Commission to act upon a completed application within forth-five (45) days from the date the completed application was heard before the Commission shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the Historic Area Commission or the application is withdrawn.
  4. Routine Maintenance. Nothing in this Article shall be taken or construed to prevent maintenance, including painting, that does not alter the exterior fabric or features of a designated landmark, site, or structure, customary farming operations, or landscaping which will have no material effect on the historic, archeological, or architectural significance of a designated landmark, site, structure, or district.

## **Section 121. Demolition by Neglect**

1. In the event of demolition by neglect, the Historic Area Commission may request the Zoning Inspector to notify, in writing, the property owner of record, any person having a right, title, or interest therein, and the occupant or other person responsible for the maintenance of the property, of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
2. Prior to the issuance of a written notice, the Historic Area Commission may request the Zoning Inspector to establish a record of demolition by neglect. Such a record may include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.
3. The notice shall provide that corrective action shall commence within thirty (30) days of the receipt of said notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the property, or any person of record with any right, title, or interest therein, may, within ten (10) days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Historic Area Commissioners upon thirty (30) days written notice being mailed to all persons of record with any right, title, or interest in the property



and to all citizens and organizations which the Historic Area Commission determines may have an interest in the proceedings.

4. If, after the public hearing, the Historic Area Commission determined that the corrective actions remain necessary, the Historic Area Commission may request the Zoning Inspector take corrective action to comply with the Final Notice within thirty (30) days of receipt of the Final Notice.
5. Upon failure, neglect, or refusal of the property owner or other responsible person, duly notified, to take the corrective action specified in the Final Notice within the time required, the Historic Area Commission may request that the Zoning Inspector institute any of the remedies and penalties provided by law for such violations.

## **Section 122. Maryland Historical Trust**

The Historic Area Commission may designate the Maryland Historical Trust to make an analysis of and report recommending the preservation of sites, structures, or districts of historic, archeological, or architectural significance within the Town. The report may include proposed boundaries or site, structures, or districts, as well as recommendations for the identification and designation of particular sites, structures or district to be preserved.

## **Section 123. Appeals**

In the event that any party is aggrieved by a decision of the Historic Area Commission, the party has the right of appeal as provided in Article V, Section 71 of the Town of Port Deposit Code. Appeal requests must be filed within thirty (30) days from the date of the Historic Area Commission decision.

## **Section 124. Violations**

Willfully performing or allowing to be performed any work without first obtaining a Certificate if Appropriateness, failing to comply with a Final Notice issued pursuant to this article, or disregarding a decision of the Commission of the provisions of this article, or disregarding a decision of the Commission will be in violation of this article. A violation of this article shall be deemed a Municipal Infraction as provided in Article VII. Each and every day that the violation continues shall be deemed a separate offence.

## **Section 125. Severability**

If any provision of this article or the application thereof to any person or circumstances is held invalid for any reason, such invalidity shall not affect the other provisions or any other application of this article which can be given effect without the invalid provision or application, and to this end, all the provisions of this article are hereby declared to be severable.

## **Section 126. Adaptive Reuse and Conversion of Structures**

The Board of Appeals may grant a special exception, adaptive reuse and conversion of use of a historic structure provided:

1. The structure proposed for an adaptive reuse or conversion of use is located in a historic district;
2. The proposed use of the structure is recommended for approval by the Planning Commission and the Historic Area Commission;
3. It is shown that exterior changes to the site structure will be minimized; extensions or enlargement of any historic structure and accessory structures may not exceed 25 percent of the gross floor area of each individual building above that which existed at the time of the adoption of these regulations. Enlargements shall be designed in keeping with the character of the building;
4. Landscaping is in keeping with character of the building;
5. The site must have access to a public street or road;
6. The use is complimentary to the character of the structure; and
7. The number of dwellings shall not exceed the density permitted in the district which the structure is located.

**Section 127.       Reserved**

**Section 128.       Reserved**

***Part IV       Critical Area Overlay District***

**Section 129.       Implementation of the Critical Area Program Purpose and Goals**

1. Goals.
  - a. The goals of the Town of Port Deposit Critical Area Program are to accomplish the following:
    - (1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
    - (2) Conserve fish, wildlife, and plant habitat; and
    - (3) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.
2. Town of Port Deposit Critical Area Program
  - a. The Port Deposit Critical Area Program consists of the Port Deposit Zoning Ordinance and the Official Port Deposit Zoning map. Related provisions may be found in the Port Deposit Subdivision Regulations.
3. Regulated activities and applicability.

- a. Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Zoning Inspector after review to determine compliance with the Town of Port Deposit Zoning Ordinance.
- 4. Critical Area Overlay District Map.
  - a. The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Port Deposit. The Official Zoning Map delineates the extent of the Critical Area Overlay District that shall include:
    - (1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetland maps, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and
    - (2) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.
  - b. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
    - (1) Intensely Developed Area (IDA).
    - (2) Limited Development Area (LDA).
    - (3) Resource Conservation Area (RCA).
  - c. The Critical Area Overlay District Map may be amended by the Mayor and Council in compliance with amendment provisions in this Ordinance, the Maryland Critical Area Law, and COMAR Title 27.
- 5. General Requirements
  - a. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Ordinance.
  - b. Reasonable accommodations for the needs of disabled citizens.
    - (1) An applicant seeking relief from the Critical Area standards contained in this Ordinance in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:
      - (i) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;

- (ii) Literal enforcement of the provisions of this Ordinance would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
  - (iii) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Ordinance or restore the disabled resident's or user's reasonable use or enjoyment of the property;
  - (iv) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Ordinance as applied to the property; and
  - (v) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
- (2) The Zoning Inspector shall determine the nature and scope of any accommodation under this Ordinance and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Ordinance. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.
- (3) The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Ordinance. Appropriate bonds may be collected or liens placed in order to ensure Port Deposit's ability to restore the property should the applicant fail to do so.

### **Section 130. Intensely Developed Areas (IDA).**

1. Development standards.
  - a. For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:
    - (1) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;
    - (2) All roads, bridges, and utilities are prohibited in a Habitat Protection Area, unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction, and maintenance shall:
      - (i) Provide maximum erosion protection;
      - (ii) Minimize negative impact on wildlife, aquatic life, and their habitats; and
      - (iii) Maintain hydrologic process and water quality.

- (3) All development activities that must cross or affect streams shall be designed to:
  - (i) Reduce increases in flood frequency and severity that are attributable to development;
  - (ii) Retain tree canopy so as to maintain stream water temperature within normal variation;
  - (iii) Provide a natural substrate for stream beds; and
  - (iv) Minimize adverse water quality and quantity impacts of stormwater.
- (4) All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.
- (5) If offsets are determined not be feasible, then fees-in-lieu shall be collected for the improvement of stormwater quality within the Town of Port Deposit. The applicant shall compute the pollutant removal requirement in accordance with the guideline provided by the Critical Area Commission as set forth in the *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended. A combination of Best Management Practices, offsets, and fees-in-lieu may be used to meet the pollutant removal requirement.
- (6) Fees-in-lieu of pollutant reduction shall be assessed at the rate of \$27,000 per pound of phosphorus. The fee shall be proportionally adjusted for fractions of a pound.

### **Section 131. Limited Development Areas (LDA).**

- 1. Development standards.
  - a. For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:
    - (1) Development and redevelopment shall be subject to the water-dependent facilities requirements of this Ordinance;
    - (2) Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:
      - (i) Provide maximum erosion protection;
      - (ii) Minimize negative impacts on wildlife, aquatic life and their habitats; and
      - (iii) Maintain hydrologic processes and water quality.
    - (3) All development activities that must cross or affect streams shall be designed to:

- (i) Reduce increases in flood frequency and severity that are attributable to development;
  - (ii) Retain tree canopy so as to maintain stream water temperature within normal variation;
  - (iii) Provide a natural substrate for stream beds; and
  - (iv) Minimize adverse water quality and quantity impacts of stormwater.
- (4) If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Ordinance. Port Deposit shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Port Deposit Attorney through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.
- (5) Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.
- (6) Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.
- (i) If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.
  - (ii) If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.
  - (iii) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).
  - (iv) Lot coverage limits provided in §(a) and §(b) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:

- (a) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purposes of lot coverage requirements.
- (b) Lot coverage associated with new development activities on the property have been minimized;
- (c) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;
- (d) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;
- (e) The following table summarizes the limits set forth in §(i) through §(iv) above:

Table A(6)(d) Lot Coverage Limits

Lot/Parcel Size (Square Feet)	Lot Coverage Limit
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,780 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

- (v) If the Planning Commission or its designee makes the findings set forth in §(d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
  - (a) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and
  - (b) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
  - (c) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to the Town of Port Deposit in lieu of performing the on-site mitigation. The amount of the fee shall be assessed at the same rate per square foot used by Cecil County Government.
- (7) The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:

- (i) The total acreage in forest and developed woodlands within the Town of Port Deposit in the Critical Area shall be maintained or preferably increased.
  - (ii) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.
  - (iii) If an applicant is authorized to clear more than 20 percent of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared.
  - (iv) An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the areal extent of the forest or developed woodlands cleared.
  - (v) If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by Port Deposit.
- (8) The following are required for forest or developed woodland clearing as required in §(7) above:
- (i) The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by Port Deposit shall be posted to assure satisfactory replacement as required in §(7) above and plant survival;
  - (ii) A permit issued by the designated agency of Cecil County Government before forest or developed woodland is cleared. Forests and developed woodlands which have been cleared before obtaining a permit is a violation and shall be replanted at three times the areal extent of the cleared forest;
  - (iii) Clearing of forest or developed woodlands that exceed the maximum area allowed in §(7) above shall be replanted at three times the areal extent of the cleared forest;
  - (iv) If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.
- (9) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.
- (i) The applicant shall designate, subject to the designated agency of Cecil County Government, a new forest area on a part of the site not forested; and



- (ii) The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Port Deposit Attorney.

## **Section 132. Resource Conservation Areas.**

1. Development standards.
  - a. For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:
    - (1) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Ordinance.
    - (2) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.
    - (3) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Ordinance.
    - (4) Nothing in this Section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members provided that no such conveyance and will result in a density greater than one dwelling unit per 20 acres.

## **Section 133. Land Use and Density**

1. Permitted Uses
  - a. Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification as modified by Table (1)(a) and the supplemental use standards in Part 6 provided such uses meet all standards established by the Critical Area Overlay District.

Table 1 (a) Permitted Uses

	<b>LEGEND:</b> P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted	IDA-Intensely Developed Area LDA-Limited Development Area RCA-Resource Conservation Area		
	Note: Permitted uses shall be limited to those uses allowed by underlying zoning classification.	Land Use Management Designation		
Item	Use Description	IDA	LDA	RCA
1.00	RESIDENTIAL			
1.10	Accessory Dwelling Unit	P	P	PC
2.00	INSTITUTIONAL			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC

	<b>LEGEND:</b> P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted	IDA-Intensely Developed Area LDA-Limited Development Area RCA-Resource Conservation Area		
	Note: Permitted uses shall be limited to those uses allowed by underlying zoning classification.	Land Use Management Designation		
Item	Use Description	IDA	LDA	RCA
2.50	Day Care	P	P	PC
3.00	COMMERCIAL			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	MARITIME/WATER DEPENDENT			
4.10	Expansion of existing commercial marinas	P	P	PC
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	NP	NP
5.00	RECREATION			
5.10	Golf course	P	P	PC
6.00	INDUSTRIAL			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
7.00	TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES			
7.10	Utility transmission facilities	PC	PC	PC
8.00	PUBLIC/QUASI-PUBLIC			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC
9.00	OTHER			

## 2. Maximum Permitted Density

- The maximum permitted density in the Port Deposit Critical Area shall be as shown in Table B (1).

Table B (1)  
Maximum Residential  
Density (Dwelling Units Per Acre)

Land Use Management Designation		
IDA	LDA	RCA

Density permitted by Underlying Zoning	Density permitted by Underlying Zoning	1 dwelling unit per 20 acres
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- b. Calculation of 1-in-20 acre density of development. In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, Port Deposit:
  - (1) Shall count each dwelling unit;
  - (2) May permit the area of any private wetlands located on the property to be included under the following conditions:
    - (i) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and
    - (ii) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Port Deposit, the Commission, and Maryland Department of the Environment.

### **Section 134. Supplemental Use Standards**

The following supplemental use standards apply to the permitted uses listed in Table A(1)(a) above and shall apply when the permitted use is allowed in the underlying zoning district.

1. Accessory Dwelling Unit (1.10)
  - a. If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area provided the additional dwelling unit is served by the same sewage disposal system as the primary dwelling unit and:
    - (1) is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or
    - (2) is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.
  - b. An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and
  - c. The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions contained herein.
2. Existing institutional uses (2.10)
  - a. Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.

- b. Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation.
- 3. New institutional uses (2.20)
  - a. New institutional facilities and uses, except those specifically listed shall not be permitted in Resource Conservation Areas.
  - b. Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Port Deposit Zoning Ordinance. These institutional uses are limited to:
    - (1) A cemetery that is an accessory use to an existing church; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;
    - (2) A day care facility in a dwelling where the operators live on the premises and there are no more than eight (8) children;
  - c. A group home or assisted living facility with no more than eight (8) residents; and
  - d. Other similar uses determined by the Municipality and approved by the Critical Area Commission to be similar to those listed above.
- 4. Existing Commercial Uses (3.10)
  - a. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.
  - b. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation.
- 5. New commercial uses (3.20)
  - a. New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas.
  - b. Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Port Deposit Zoning Ordinance. These commercial uses are limited to:
    - (1) A home occupation as an accessory use on a residential property and as provided for in Port Deposit's Zoning Ordinance;
    - (2) A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
    - (3) Other uses determined by the Municipality and approved by the Critical Area Commission to be similar to those listed above.

6. Expansion of existing commercial marinas (4.10)
  - a. Expansion of existing commercial marinas may be permitted within Resource Conservation Areas provided:
    - (1) Water quality impacts are quantified and appropriate Best Management Practices that address impacts are provided;
    - (2) That it will result in an overall net improvement in water quality at or leaving the site of the marina;
    - (3) The marina meets the sanitary requirements of the Department of the Environment; and
    - (4) Expansion is permitted under the nonconforming use provisions of this Ordinance.
  - b. Expansion of existing commercial marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates:
    - (1) The project meets a recognized private right or public need;
    - (2) Adverse effects on water quality, fish, plant and wildlife habitat are minimized;
    - (3) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and
    - (4) Expansion is permitted under the nonconforming use provisions of this Ordinance.
7. New marina, commercial (4.20)
  - a. New commercial marinas shall not be permitted in Resource Conservation Areas.
  - b. New commercial marinas may be permitted in Limited Development Areas and Intensely Developed Areas if allowed in the underlying zoning, provided:
    - (1) New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
    - (2) New marinas meet the sanitary requirements of the Department of the Environment.
    - (3) New marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:
      - (i) The project meets a recognized private right or public need;
      - (ii) Adverse effects on water quality, fish, plant and wildlife habitat are minimized; and
      - (iii) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer.

8. Community piers and noncommercial boat docking and storage (4.30)
  - a. New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Buffer subject to the requirements in this Ordinance 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;
    - (2) The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
    - (3) The facilities are associated with a residential development approved by Port Deposit for the Critical Area and consistent with all State requirements and the requirements of this Ordinance applicable to the Critical Area;
    - (4) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and
    - (5) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.
  - b. Number of slips or piers permitted. The number of slips or piers permitted at the facility shall be the lesser of §a or §b below:
    - (1) One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or
    - (2) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table (h).2 Number of Slips Permitted

Platted Lots or Dwellings in the Critical Area	Slips
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

9. Public beaches and public water-oriented recreational and educational areas (4.40)

- a. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas.
- b. These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:
  - (1) Adequate sanitary facilities exist;
  - (2) Service facilities are, to the extent possible, located outside the Buffer;
  - (3) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
  - (4) Disturbance to natural vegetation is minimized; and
  - (5) Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas if service facilities for these uses are located outside of the Buffer.

10. Research areas (4.50)

- a. Water-dependent research facilities or activities operated by State, Federal, or local agencies or educational institutions may be permitted in the Buffer, if non-water-dependent structures or facilities associated with these project are, to the extent possible, located outside of the Buffer.

11. Fisheries activities (4.60)

- a. Commercial water-dependent fisheries including, but not limited to structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the Buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

12. Structures on Piers (4.70)

- a. Except as provided in (a), (b), and (c) below, construction of dwelling unit or other non-water-dependent structure on a pier located on State or private tidal wetlands within the Critical Area is prohibited.
  - (1) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved provided a permit was issued by the Department of Natural Resources on or before January 1, 1989.
  - (2) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved if the following conditions exist:
    - (i) The project is constructed on a pier that existed as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed; and

(iii) The project is located in an Intensely Developed Area.

(3) A building permit for the repair of an existing dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved.

(4) If a structure that is not water-dependent is permitted under the exceptions included in this section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established herein:

(i) The construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water;

(ii) The quality of stormwater runoff from the project will be improved; and

(iii) Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.

#### 13. Golf course (5.10)

a. golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Areas provided:

(1) Such use is permitted in the underlying zoning; and

(2) Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

#### 14. Existing industrial uses (6.10)

a. Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture may be permitted in Resource Conservation Areas.

b. Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation..

#### 15. New industrial uses (6.20)

a. New industrial uses shall not be permitted in Resource Conservation Areas.



- b. New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas (LDA) if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.
- c. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Buffer Management Areas.

16. Non-maritime heavy industry (6.3)

- a. Non-maritime heavy industry may be permitted if:
  - (1) The site is located in an Intensely Developed Area; and
  - (2) The activity or facility 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.

17. Utility transmission facilities (7.10)

- a. Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:
  - (1) The facilities are located in Intensely Developed Areas; and
  - (2) Only after the activity or facility 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. These provisions do not include power plants.

18. Sanitary landfill; rubble fill (8.10)

- a. Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
- b. Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

19. Solid or hazardous waste collection or disposal facilities (8.20)

- a. Solid or hazardous waste collection or disposal facilities, including transfer stations may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem.
- b. Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

## 20. Sludge Facilities (8.40)

- a. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area provided:
  - (1) The facility or activity is located in an Intensely Developed Areas; and
  - (2) Only after the activity or facility 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. Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot-Buffer.

## **Section 135. Growth Allocation.**

1. Growth allocation acreage. Growth allocation available to Port Deposit includes:
  - a. An areas equal to five (5) percent of the RCA acreage located within Port Deposit and;
  - b. Growth allocation available to Port Deposit as provided for by Cecil County.
2. Growth Allocation Floating Zone District GA.
  - a. Purpose. The Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas (RCA) and/or Limited Development Area (LDA) within the Port Deposit Critical Area Overlay District. The purpose of the floating zone is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification. Only projects which have been approved by the Mayor and Council for award of the Critical Area Growth Allocation are eligible for floating zones.
  - b. Designation of floating zones.
    - (1) The Growth Allocation District GA shall be a floating zone.
    - (2) The Growth Allocation District GA provides for changing the land management classification of Resource Conservation Areas (RCA's) and Limited Development Areas (LDA's) in the Critical Area Overlay District.
3. Standards. When locating new Intensely Developed or Limited Development Areas the following standards shall apply:
  - a. A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area.
  - b. A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area.
  - c. New Intensely Developed Areas shall be at least 20 acres in size unless:
    - (1) They are contiguous to an existing IDA or located in an LDA; or

- (2) They are a grandfathered commercial or industrial use, which existed as of October 28, 2010. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
  - d. No more than one-half of the Port Deposit's growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in Subsection (9) below.
  - e. A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality.
  - f. A new Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA).
  - g. A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.
  - h. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of Port Deposit for such areas, shall be so designated on the Port Deposit Critical Area Maps and shall constitute an amendment to this Ordinance subject to review and approval by the Port Deposit Planning Commission, the [Town Commissioners or Mayor and Council] and the Critical Area Commission as provided herein.
  - i. If Port Deposit is unable to utilize a portion of its growth allocation as set out in §(1) and §(2) above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in §(4) above.
4. Additional Factors. In reviewing map amendments or refinements involving the use of growth allocation, Port Deposit shall consider the following factors:
- a. Consistency with Port Deposit's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to the following items in the comprehensive plan:
    - (1) Policies;
    - (2) Timing of the implementation of the plan, of development, and of rezoning;
    - (3) Development patterns;
    - (4) Land uses; and
    - (5) Densities or intensities.

- b. For a map amendment or refinement involving a new Limited Development Area, whether the development is:
  - (1) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
  - (2) A completion of an existing subdivision;
  - (3) An expansion of an existing business; or
  - (4) To be clustered.
- c. For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
  - (1) To be served by a public wastewater system;
  - (2) If greater than 20 acres, to be located in a designated Priority Funding Area;
  - (3) To have a demonstrable economic benefit;
- d. The use of existing public infrastructure, where practical;
- e. Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;
- f. Impacts on a priority preservation area;
- g. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
- h. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

### **Section 136. Grandfathering.**

- 1. Continuation of existing uses.
  - a. The continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.
  - b. If any existing use does not conform with the provisions of this Ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures in Part 9.

## 2. Residential density on Grandfathered Lots.

- a. Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this Ordinance.
  - (1) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985
  - (2) Land that received a building permit subsequent to December 1, 1985, but prior to October 28, 2010.
  - (3) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985;
  - (4) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985 and provided that either development of any such land conforms to the IDA, LDA or RCA requirements in this Ordinance or the area of the land has been counted against the growth allocation permitted under this Ordinance.

## 3. Consistency.

Nothing in this Section may be interpreted as altering any requirements of this Ordinance related to water-dependent facilities or Habitat Protection Areas.

## **Section 137. Variances.**

### 1. Applicability.

- a. Port Deposit has established provisions where, owing to special features of a site or other circumstances, implementation of this Ordinance or a literal enforcement of provisions within this Ordinance would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.
  - (1) In considering an application for a variance, Port Deposit shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this Ordinance.
  - (2) Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

### 2. Standards.

- a. The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:

- (1) Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of the this Ordinance would result in unwarranted hardship;
- (2) A literal interpretation of the provisions of this Ordinance will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Critical Area ordinance;
- (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Critical Area Ordinance to other lands or structures within the Critical Area;
- (4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property; and
- (5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law and this Ordinance.

### 3. Process.

- a. Applications for a variance will be made in writing to the Port Deposit Board of Appeals with a copy provided to the Critical Area Commission. Port Deposit shall follow its established procedures for advertising and notification of affected landowners.
  - (1) After hearing an application for a Critical Area Program variance, the Board of Appeals shall make written findings reflecting analysis of each standard.
  - (2) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, Port Deposit shall consider that fact.
  - (3) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph (A) above.
  - (4) Port Deposit shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.

### 4. Findings.

- a. Based on competent and substantial evidence, Port Deposit Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in §A above, and if applicable §B above. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:
  - (1) The applicant;

- (2) Port Deposit or any other government agency; or
  - (3) Any other person deemed appropriate by Port Deposit.
5. Appeals.
- a. Appeals from decision concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of the Port Deposit for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this Ordinance.
6. Conditions and mitigation.
- a. The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this Ordinance is maintained including, but not limited to the following:
    - (1) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Planning Commission, but not less than by planting on the site per square foot of the variance granted at no less than a three to one basis.
    - (2) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.
7. Commission notification.
- a. Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. Port Deposit may not issue a permit for the activity that was the subject of the application until the applicable 30-day appeal period has elapsed.

## **Section 138. Lot Consolidation and Reconfiguration**

1. Applicability
- a. The provisions of this part apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots includes:
    - (1) Those for which a Critical Area variance is sought or has been issued; and
    - (2) Those located in the Resource Conservation Area and are less than 20 acres in size.
2. Procedure
- a. An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the required information required in COMAR 27.01.02.08.E to the Port Deposit.
    - (1) The Port Deposit may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.

- (2) The Port Deposit shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
- (i) After a final written decision or order is issued, the Port Deposit shall send a copy of the decision or order and a copy of any approved development plan within 10 business days by U.S. mail to the Commission's business address.

## **Section 139. Amendments**

1. Amendments.
  - a. The Town of Port Deposit may from time to time amend the Critical Area provisions of this Ordinance. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect the Port Deposit's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8-1809(d), respectively.
2. Zoning map amendments.
  - a. Except for program amendments or program refinements developed during a six-year comprehensive review, a zoning map amendment may only be granted by the Town of Port Deposit upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:
    - (1) Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or
    - (2) The use of growth allocation in accordance with the growth allocation provisions of this Ordinance is proposed.
3. Process.
  - a. When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. The Planning Commission shall forward a recommendation to the Mayor and Council of the Town of Port Deposit.
  - b. The Mayor and Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in Port Deposit.
  - c. If the Mayor and Council approve an amendment, they shall forward their decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

## **Section 140. Enforcement**



1. Consistency.
  - a. The Critical Area provisions of this Ordinance, in accordance with the Critical Area Act and Criteria supersede any inconsistent law, Chapter or plan of Port Deposit. In the case of conflicting provisions, the stricter provisions shall apply.
2. Violations.
  - a. No person shall violate any provision of this Zoning Ordinance. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
  - b. Each person who violates a provision of this Ordinance shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
  - c. Noncompliance with any permit or order issued by the Town of Port Deposit related to the Critical Area shall be a violation of this Ordinance and shall be enforced as provided herein.
3. Responsible persons.
  - a. The following persons may each be held jointly or severally responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or (6) any person who has committed, assisted, or participated in the violation.
4. Required enforcement action.
  - a. In the case of violations of this Ordinance, Port Deposit shall take enforcement action including:
    - (1) Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;
    - (2) Issue abatement, restoration, and mitigation orders as necessary to:
      - (i) Stop unauthorized activity;
      - (ii) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and
    - (3) Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.
5. Right to enter property.
  - a. Except as otherwise authorized and in accordance with the procedures specified herein, the Zoning Inspector may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Zoning Inspector has probable cause to believe that a violation of this Ordinance has

occurred, is occurring, or will occur. The Zoning Inspector shall make a reasonable effort to contact a property owner before obtaining access to or enter the property. If entry is denied, the Zoning Inspector may seek an injunction to enter the property to pursue an enforcement action.

6. Administrative civil penalties.

- a. In addition to any other penalty applicable under State or Port Deposit law, every violation of a provision of Natural Resources Article, Title 8 Subtitle 18, or the Critical Area provisions of this Ordinance shall be punishable by a civil penalty of up to \$10,000 per calendar day.
  - (1) Before imposing any civil penalty, the person(s) believed to have violated this Ordinance shall receive the following: written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Zoning Inspector shall consider:
    - (i) The gravity of the violation;
    - (ii) The presence or absence of good faith of the violator;
    - (iii) Any willfulness or negligence involved in the violation including a history of prior violations;
    - (iv) The environmental impact of the violation; and
    - (v) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to Port Deposit for performing, supervising, or rendering assistance to the restoration and mitigation.
  - (2) Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.
  - (3) The person responsible for any continuing violation shall promptly provide the Zoning Inspector with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for the Zoning Inspector to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Town of Port Deposit receives such written notice and verifies compliance by inspection or otherwise.
  - (4) Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by Port Deposit of all damages, costs, and other expenses caused by the violation.

- (5) Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Ordinance.
7. Cumulative remedies.
- a. The remedies available to Port Deposit under this Ordinance are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.
8. Injunctive relief.
- a. Port Deposit is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Ordinance, an administrative order, a permit, a decision, or other imposed condition.
- (1) The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent Port Deposit from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.
9. Variances pursuant to a violation.
- a. Port Deposit may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle or any provisions of an order, permit, plan, or this Ordinance in accordance with the variance provisions of this Ordinance. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by Port Deposit.
10. Permits pursuant to a violation.
- a. The Zoning Inspector shall not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:
- (1) Fully paid all administrative, civil, or criminal penalties as set forth in Section F. above;
- (2) Prepared a restoration or mitigation plan, approved by the regulatory authorities, to abate impacts to water quality or natural resources as a result of the violation;
- (3) Performed the abatement measures in the approved plan in accordance with the Port Deposit regulations; and
- (4) Unless an extension of time is approved by Port Deposit because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.
11. Appeals.
- a. An appeal to the Port Deposit Board of Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by the Zoning Inspector, Town

Administrator, Planning Commission or Historic Area Commission in connection with the administration and enforcement of this Ordinance.

- (1) An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the Port Deposit Zoning Ordinance and accompanied by the appropriate filing fee.
- (2) An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and
- (3) An appeal stays all actions by Port Deposit seeking enforcement or compliance with the order or decisions being appealed, unless Port Deposit certifies to the Board of Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case, action by Port Deposit shall not be stayed except by order of the Board of Appeals or a court up on application of the party seeking the stay.

#### **Section 141.           The 100-Foot Buffer.**

##### **1. Applicability & Delineation**

- a. An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this part. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:
  - (1) The minimum 100-foot Buffer is delineated, based on existing field conditions, landward from:
    - (i) The mean high water line of a tidal water;
    - (ii) The edge of each bank of a tributary stream; and
    - (iii) The upland boundary of a tidal wetland.
  - (2) The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in §A(1) above and the minimum 200-foot Buffer as described in §A(3) below, to include the following contiguous land features:
    - (i) A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;
    - (ii) A nontidal wetland to the upland boundary of the nontidal wetland;
    - (iii) The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01;
    - (iv) For an area of hydric soils or highly erodible soils, the lesser of:
      - (a) The landward edge of the hydric or highly erodible soils; or

(b) Three hundred feet where the expansion area includes the minimum 100-foot Buffer.

(3) Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:

(i) An expanded Buffer in accordance with §A(2) above; or

(ii) A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.

(4) The provisions of §A(3) above do not apply if:

(i) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010;

(ii) The application involves the use of growth allocation.

2. Permitted activities.

a. If approved by Port Deposit, disturbance to the Buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved Buffer Management as required per Section F of this Part:

(1) A new development or redevelopment activity associated with a water-dependent facility or located in an approved Buffer Management Area; or

(2) A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Ordinance;

(3) A development or redevelopment activity approved in accordance with the variance provisions of this Ordinance;

(4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010 where:

(i) The Buffer is expanded for highly erodible soil on a slope less than 15 percent or is expanded for a hydric soil and the expanded Buffer occupies at least 75% of the lot or parcel;

(ii) The development or redevelopment is located in the expanded portion of the Buffer and not within the 100-foot Buffer; and

(iii) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.

(5) A new or replacement septic system on a lot created before [local program adoption date], where:

(i) The Health Department has determined the Buffer is the only available location for the septic system; and

- (ii) Mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.

### 3. Buffer establishment in vegetation.

- a. An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the Buffer, but is located on a on a riparian lot or parcel that includes the minimum 100-foot Buffer, shall establish the Buffer in vegetation if the Buffer is not fully forested or fully established in woody or wetland vegetation.

(1) The provisions of this section apply to:

- (i) Approval of a subdivision;

- (ii) A lot or parcel that is converted from one land use to another;

- (iii) Development or redevelopment on a lot or parcel created before January 1, 2010.

(2) The provisions of this section do not apply to an in-kind replacement of a structure.

- (3) If a Buffer is not fully forested or fully established in existing, naturally occurring woody or wetland vegetation, the Buffer shall be established through planting shall be in accordance with COMAR 27.01.09.01-1.

### 4. Mitigation for impacts to the Buffer.

- a. An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this part and the Port Deposit Policies and Procedures Manual.

- (1) Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Health Department on a lot created before May 9, 2016, and special exception.

- (2) All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2.

- (3) All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.

- (4) Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then the Port Deposit may permit planting in the following order of priority:

- (i) On-site and adjacent to the Buffer; an

- (ii) On-site elsewhere in the Critical Area.

### 5. Buffer Planting Standards.

- a. An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 01-4.
  - b. A variance to the planting and mitigation standards of this Ordinance is not permitted.
6. Required Submittal of Buffer Management Plans.
- a. An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.
    - (1) A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:
      - (i) Fully establishing the Buffer;
      - (ii) Partially establishing an area of the Buffer equal to the net increase in lot coverage, or
      - (iii) Partially establishing an area of the Buffer equal to the total lot coverage.
    - (2) Any permit for development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by Port Deposit.
    - (3) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by Port Deposit.
    - (4) Port Deposit may not approve a Buffer Management Plan unless:
      - (i) The plan clearly indicates that all planting standards under §E of this Ordinance will be met; and
      - (ii) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.
    - (5) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:
      - (i) Completes the implementation of a Buffer Management Plan; or
      - (ii) Provides financial assurance to cover the costs for:
        - (a) Materials and installation; and
        - (b) If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.
    - (6) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.

- (7) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance.
    - (i) A permit for development activity will not be issued for a property that has the violation.
  - (8) An applicant shall post a subdivision with durable signs prior to final recordation in accordance with COMAR 2.7.01.09.01-2.
  - (9) Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4
7. Fees-In-Lieu of Buffer Mitigation.
- a. A fee in-lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met onsite, Port Deposit in accordance with the following standards:
    - (1) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Port Deposit's general fund;
    - (2) Fee-in-lieu shall be assessed at Cecil County's current rate per square foot required Buffer mitigation;
    - (3) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and
    - (4) Fee-in-lieu monies shall be used for the following projects:
      - (i) To establish the Buffer on sites where planting is not a condition of development or redevelopment;
      - (ii) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between Port Deposit and the Critical Area Commission.
8. Shore Erosion Control Projects.
- a. Shore erosion control measures are permitted activities within the Buffer in accordance with the following requirements:
    - (1) An applicant for a shore erosion control project that affects the Buffer in any way, including, but not limited to access, vegetation removal and pruning, or backfilling shall submit a Buffer Management Plan in accordance with the requirements of this section; and
    - (2) Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.06.01.

## **Section 142. Buffer Management Area (BMA) Provisions.**

- 1. Development and Redevelopment Standards.



- a. New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer in a designated BMA unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize Buffer impacts and the development shall comply with the following standards:
  - (1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
  - (2) Variances to other local setback requirements have been considered before additional intrusion into the Buffer.
  - (3) Commercial, industrial, institutional, recreational and multi-family residential development and redevelopment shall meet the following standards:
    - (i) New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.
    - (ii) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.
  - (4) Single family residential development and redevelopment shall meet the following standards:
    - (i) New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).
    - (ii) Existing principal or accessory structures may be replaced in the same footprint.
    - (iii) New accessory structures may be located closer to the water than the setback if the Planning Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total in the Buffer.
  - (5) Variances to other local setback requirements shall be considered before additional intrusion into the Buffer is permitted.

- (6) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- (7) Buffer Management Area (BMA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.
- (8) No natural vegetation may be removed in the Buffer except that required by the proposed construction.
- (9) Mitigation for development or redevelopment in the in the BMA approved under the provisions of this subsection shall be implemented as follows:
  - (i) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location approved by the Planning Commission.
  - (ii) Applicants who cannot fully comply with the planting requirement in §a above, may use offset by removing an equivalent area of existing lot coverage in the Buffer.
  - (iii) Applicants who cannot comply with either the planting or offset requirements in §(a) or §(b) above shall pay into a fee-in-lieu program as follows:
    - (a) A Fee-in-lieu shall be assessed at twice the extent of the footprint of the development activity within the 100-foot Buffer at Cecil County's current rate per square foot.
    - (b) Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Port Deposit's Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing local, State, or federal laws, regulations, statutes, or permits. The status of these funds must be reported in the jurisdiction's quarterly reports.
    - (c) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

## **Section 143. Other Habitat Protection Areas**

- 1. Identification.
  - a. An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this Part. Habitat Protection Areas includes:
    - (1) Threatened or endangered species or species in need of conservation;

- (2) Colonial waterbird nesting sites;
- (3) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
- (4) Existing riparian forests;
- (5) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
- (6) Other plant and wildlife habitats determined to be of local significance;
- (7) Natural Heritage Areas; and
- (8) Anadromous fish propagation waters.

2. Standards

- a. An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above, shall request review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.
- b. If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resource.
- c. The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

## **Section 144. Environmental Impact Assessment (EIA)**

1. Applicability.

- a. Port Deposit may require an Environmental Impact Assessment (EIA) for the following:
  - (1) Development or redevelopment activities in the Critical Area requiring site plan approval;
  - (2) Development or redevelopment activities in the Critical Area requiring subdivision approval;
  - (3) Development or redevelopment activities within a Habitat Protection Area other than a detached single family dwelling;

(4) An application of Growth Allocation; or

(5) An application of a Variance other than for detached single family dwelling.

## **Section 145 to 157. Reserved.**

### ***Part V. Floodplain Overlay District***

#### **Section 158 (1.0) General Provisions**

1. (1.1) Findings. The Federal Emergency Management Agency has identified *special flood hazard areas* within the boundaries of the Town of Port Deposit. *Special flood hazard areas* are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. *Structures* that are inadequately elevated, improperly *floodproofed*, or otherwise unprotected from flood damage also contribute to flood losses.

The Town of Port Deposit, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on February 16, 1977. As of that date, or as of August 16, 1976 the initial effective date of the Town of Port Deposit Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with these regulations.

2. (1.2) Statutory Authorization. The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the Town Council of the Town of Port Deposit does hereby adopt the following floodplain management regulations.
3. (1.3) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
  - a. Protect human life, health and welfare;
  - b. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
  - c. Minimize *flooding* of water supply and sanitary sewage disposal systems;
  - d. Maintain natural drainage;
  - e. Reduce financial burdens imposed on the *community*, its governmental units and its residents, by discouraging unwise design and construction of *development* in areas subject to *flooding*;

- f. Minimize the need for rescue and relief efforts associated with *flooding* and generally undertaken at the expense of the general public;
  - g. Minimize prolonged business interruptions;
  - h. Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
  - i. Reinforce that those who build in and occupy *special flood hazard areas* should assume responsibility for their actions;
  - j. Minimize the impact of *development* on adjacent properties within and near *flood-prone* areas;
  - k. Provide that the *flood* storage and conveyance functions of *floodplains* are maintained;
  - l. Minimize the impact of *development* on the natural and beneficial functions of *floodplains*;
  - m. Prevent *floodplain* uses that are either hazardous or environmentally incompatible; and
  - n. Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.
4. (1.4) Areas to Which These Regulations Apply. These regulations shall apply to all *special flood hazard areas* within the jurisdiction of the Town of Port Deposit, and identified in Section 1.5.
5. (1.5) Basis for Establishing Special Flood Hazard Areas and BFEs:
- a. For the purposes of these regulations, the minimum basis for establishing *special flood hazard areas* and *base flood elevations* is the *Flood Insurance Study* for Cecil County, Maryland and Incorporated Areas dated July 8, 2013 and May 4, 2015, or the most recent revision thereof, and the accompanying *Flood Insurance Rate Map(s)* and all subsequent amendments and revisions to the *FIRMs*. The *FIS* and *FIRMs* are retained on file and available to the public at the Town of Port Deposit Town Hall.
  - b. Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable *base flood elevation*, even in areas not delineated as a special flood hazard on the *FIRM*, the area shall be considered as *special flood hazard area*.
  - c. To establish *base flood elevations* in *special flood hazard areas* that do not have such elevations shown on the *FIRM*, the Floodplain Administrator may provide the best available data for *base flood elevations*, may require the applicant to obtain available information from Federal, State or other sources, or may require the applicant to

establish *special flood hazard areas* and *base flood elevations* as set forth in Section 3.3, Section 3.4, and Section 3.5 of these regulations.

6. (1.6) Abrogation and Greater Restrictions. These regulations are not intended to repeal or abrogate any existing regulations and ordinances, including subdivision regulations, zoning ordinances, *building codes*, or any existing easements, covenants, or deed restrictions. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.
7. (1.7) Interpretation. In the interpretation and application of these regulations, all provisions shall be:
  - a. Considered as minimum requirements;
  - b. Liberally construed in favor of the governing body; and,
  - c. Deemed neither to limit nor repeal any other powers granted under State statutes. Notes referencing publications of the Federal Emergency Management Agency refer to the most recent edition of those publications, are intended only as guidance, and do not bind or alter the authority of the Floodplain Administrator to interpret and apply these regulations.
8. (1.8) Warning and Disclaimer of Liability. The degree of *flood* protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and *flood* heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the *special flood hazard areas* or uses that are permitted within such areas will be free from *flooding* or *flood* damage.

These regulations shall not create liability on the part of the Town of Port Deposit, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any *flood* damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

9. (1.9) Severability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

## **Section 159 (2.0) Definitions**

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to have the meaning they have in common usage and to give these regulations the most reasonable application.

**Accessory Structure:** A building or *structure* on the same lot with, and of a nature customarily incidental and subordinate to, the principal *structure*. For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

**Agreement to Submit an Elevation Certificate:** A form on which the applicant for a permit to construct a building or *structure*, to construct certain horizontal additions, to place or replace a *manufactured home*, to substantially improve a building, *structure*, or *manufactured home*, agrees to have an *Elevation Certificate* prepared by a *licensed* professional engineer or *licensed* professional surveyor, as specified by the Floodplain Administrator, and to submit the certificate:

- a. Upon placement of the *lowest floor* and prior to further vertical construction; and
- b. Prior to the final inspection and issuance of the Certificate of Occupancy.

**Alteration of a Watercourse:** For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction.

**Area of Shallow Flooding:** A designated Zone AO on the *Flood Insurance Rate Map* with a 1-percent annual chance or greater of *flooding* to an average depth of one to three feet where a clearly defined channel does not exist, where the path of *flooding* is unpredictable, and where velocity flow may be evident; such *flooding* is characterized by ponding or sheet flow.

**Base Building:** The building to which an addition is being added. This term is used in provisions relating to additions.

**Base Flood:** The *flood* having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 1-percent annual chance (100-year) *flood*.

**Base Flood Elevation:** The water surface elevation of the *base flood* in relation to the datum specified on the *community's Flood Insurance Rate Map*. In *areas of shallow flooding*, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Building Code(s):** The effective Maryland Building Performance Standards (COMAR 05.02.07), including the building code, residential code, and existing building code.

**Coastal A Zone:** An area within a *special flood hazard area*, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of *flooding* are astronomical tides and storm surges, and in which, during *base flood* conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of the Coastal A Zone may be delineated on *FIRMs* as the *Limit of Moderate Wave Action (LiWMA)*.

**Coastal High Hazard Area:** An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. *Coastal high hazard areas* also are referred to as “V Zones” and are designated on *FIRMS* as zones VE or V1-30.

**Community:** A political subdivision of the State of Maryland (county, city or town) that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries.

**Critical and Essential Facilities:** Buildings and other *structures* that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. [Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

**Declaration of Land Restriction (Nonconversion Agreement):** A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain *enclosures below the lowest floor* of elevated buildings and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

**Development:** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other *structures*, placement of *manufactured homes*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Elevation Certificate:** FEMA form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a *licensed* professional land surveyor or a *licensed* professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in *special flood hazard areas* for which *base flood elevation* data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. [Note: FEMA Form 086-0-33 and instructions are available online at <http://www.fema.gov/library/viewRecord.do?id=1383>.]

**Enclosure Below the Lowest Floor:** An unfinished or *flood*-resistant enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a *basement* area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations. Also see “Lowest Floor.”

**Federal Emergency Management Agency (FEMA):** The Federal agency with the overall responsibility for administering the National Flood Insurance Program.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters, and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.



**Flood Damage-Resistant Materials:** Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Note: See NFIP Technical Bulletin #2, "Flood Damage-Resistant Materials Requirements."]

**Flood Insurance Rate Map (FIRM):** An official map on which the Federal Emergency Management Agency has delineated *special flood hazard areas* to indicate the magnitude and nature of *flood* hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM).

**Flood Insurance Study (FIS):** The official report in which the Federal Emergency Management Agency has provided *flood* profiles, *floodway* information, and the water surface elevations.

**Flood Opening:** A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of 1 square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a *licensed* professional engineer or *licensed* architect as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters; this certification requirement may be satisfied by an individual certification for a specific building or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures."]

**Flood Protection Elevation:** The *base flood elevation* plus two (2) feet of freeboard. Freeboard is a factor of safety that compensates for uncertainty in factors that could contribute to *flood* heights greater than the height calculated for a selected size *flood* and *floodway* conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change, and the hydrologic effect of urbanization in a watershed.

**Flood Protection Setback:** A distance measured perpendicular to the top of bank of a *watercourse* that delineates an area to be left undisturbed to minimize future *flood* damage and to recognize the potential for bank erosion. Along *nontidal waters of the State*, the flood protection setback is:

- a. 100 feet, if the *watercourse* has *special flood hazard areas* shown on the *FIRM*, except where the setback extends beyond the boundary of the flood hazard area; or
- b. 50 feet, if the *watercourse* does not have *special flood hazard areas* shown on the *FIRM*.

**Flood Zone:** A designation for areas that are shown on *Flood Insurance Rate Maps*:

- a. Zone A: *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are not determined.
- b. Zone AE and Zone A1-30: *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood*; *base flood elevations* are determined; *floodways* may or may not be determined. In areas subject to tidal *flooding*, the *Limit of Moderate Wave Action* may or may not be delineated.

- c. Zone AH and Zone AO: *Areas of shallow flooding*, with *flood* depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated *flood* depths.
- d. Zone B and Zone X (shaded): Areas subject to inundation by the 0.2-percent annual chance (500-year) *flood*; areas subject to the 1-percent annual chance (100-year) *flood* with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected from the *base flood* by levees.
- e. Zone C and Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).
- f. Zone VE and Zone V1-30: *Special flood hazard areas* subject to inundation by the 1-percent annual chance (100-year) *flood* and subject to high velocity wave action (also see *coastal high hazard area*).

Floodplain: Any land area susceptible to being inundated by water from any source (see definition of “Flood” or “Flooding”).

Floodproofing or Floodproofed: Any combination of structural and nonstructural additions, changes, or adjustments to buildings or *structures* which reduce or eliminate *flood* damage to real estate or improved real property, water and sanitary facilities, *structures* and their contents, such that the buildings or *structures* are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. [Note: State regulations at COMAR 26.17.04.11(B)(7) do not allow new nonresidential buildings in *nontidal waters of the State* to be floodproofed.]

Floodproofing Certificate: FEMA form that is to be completed, signed and sealed by a *licensed* professional engineer or *licensed* architect to certify that the design of *floodproofing* and proposed methods of construction are in accordance with the applicable requirements of Section 5.5(B) of these regulations. [Note: FEMA Form 086-0-34 is available online at <http://www.fema.gov/library/viewRecord.do?id=1600>.]

Floodway: The channel of a river or other *watercourse* and the adjacent land areas that must be reserved in order to pass the *base flood* discharge such that the cumulative increase in the water surface elevation of the *base flood* discharge is no more than a designated height. When shown on a *FIRM*, the floodway is referred to as the “designated floodway.”

Free-of-Obstruction: A term that describes open foundations (pilings, columns, or piers) without attached elements or foundation components that would obstruct the free passage of floodwaters and waves beneath *structures* that are elevated on such foundations. [Note: See NFIP Technical Bulletin #5, “Free-of-Obstruction Requirements.”]

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic Structure: Any *structure* that is:

- a. Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- c. Individually listed on the Maryland Register of Historic Places.

Hydrologic and Hydraulic Engineering Analyses: Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Maryland Department of the Environment (Nontidal Wetlands & Waterways) and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

- a. Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a specific property or *structure* is not located in a *special flood hazard area*.
- b. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.
- c. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective *FIRM*.

**Licensed:** As used in these regulations, licensed refers to professionals who are authorized to practice in the State of Maryland by issuance of licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and Home Inspectors Commission.

**Limit of Moderate Wave Action (LiMWA):** Inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including *basement*) of a building or *structure*; the floor of an *enclosure below the lowest floor* is not the lowest floor provided the enclosure is constructed in accordance with these regulations. The lowest floor of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).

**Manufactured Home:** A *structure*, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a *recreational vehicle*.

**Market Value:** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of these regulations, the market value of a building is determined by a *licensed* real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation.

**Maryland Department of the Environment (MDE):** A principal department of the State of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for *development* and construction that occur within the *waters of the State*, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, “MDE” refers to the Department’s Wetlands and Waterways Program.

**Mixed-use Structure:** Any *structure* that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.

**National Flood Insurance Program (NFIP):** The program authorized by the U.S. Congress in 42 U.S.C. §§4001 - 4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for *development* in areas prone to *flooding* (see definition of “Special Flood Hazard Area”).

**New Construction:** *Structures*, including additions and improvements, and the placement of *manufactured homes*, for which the *start of construction* commenced on or after August 16, 1977, the initial effective date of the Town of Port Deposit *Flood Insurance Rate Map*, including any subsequent improvements, alterations, modifications, and additions to such *structures*.

NFIP State Coordinator: See Maryland Department of the Environment.

Nontidal Waters of the State: See “Waters of the State.” As used in these regulations, “nontidal waters of the State” refers to any stream or body of water within the State that is subject to State regulation, including the “100-year frequency *floodplain* of free-flowing waters.” COMAR 26.17.04 states that “the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary maps adopted pursuant to Environment Article, §16-301, Annotated Code of Maryland.” Therefore, the boundary between the tidal and nontidal waters of the State is the tidal wetlands boundary.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Recreational Vehicle: A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area (SFHA): The land in the *floodplain* subject to a one-percent or greater chance of *flooding* in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in *Flood Insurance Studies* and on *Flood Insurance Rate Maps* as Zones A, AE, AH, AO, A1-30, and A99. The term includes areas shown on other flood maps that are identified in Section 1.5.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a *structure* on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a *manufactured home* on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a *basement*, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of *accessory structures*, such as garages or sheds not occupied as dwelling units or not part of the main *structure*. For *substantial improvements*, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: That which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a *manufactured home*.  
Substantial Damage: Damage of any origin sustained by a building or *structure* whereby the cost of restoring the building or *structure* to its before damaged condition would equal or exceed 50 percent of the *market value* of the building or *structure* before the damage occurred. Also used as “substantially damaged” structures. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a building or *structure*, the cost of which equals or exceeds 50 percent of the *market value* of the

building or *structure* before the *start of construction* of the improvement. The term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a building or *structure* to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official prior to submission of an application for a permit and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a *historic structure*, provided that the alteration will not preclude the *structure's* continued designation as a *historic structure*.  
[Note: See "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758).]

Temporary Structure: A *structure* installed, used, or erected for a period of less than 180 days.

Variance: A grant of relief from the strict application of one or more requirements of these regulations.

Violation: Any construction or *development* in a *special flood hazard area* that is being performed without an issued permit. The failure of a building, *structure*, or other *development* for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, *structure*, or other *development* without the required design certifications, the *Elevation Certificate*, or other evidence of compliance required is presumed to be a *violation* until such time as the required documentation is provided.

Watercourse: The channel, including channel banks and bed, of *nontidal waters of the State*.

Waters of the State: [See Environment Article, Title 5, Subtitle 1, Annotated Code of Maryland.]

Waters of the State include:

- a. Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
- b. That portion of the Atlantic Ocean within the boundaries of the State;
- c. The Chesapeake Bay and its tributaries;
- d. All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
- e. The *floodplain* of free-flowing waters determined by MDE on the basis of the 100-year *flood* frequency.

## **Section 160 (3.0) Administration**

1. (3.1) Designation of the Floodplain Administrator. The Town Planning and Zoning Administrator hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:
  - a. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
  - b. Enter into a written agreement or written contract with another Maryland *community* or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the *community* of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.
2. (3.2) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
  - a. Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
  - b. Interpret *floodplain* boundaries and provide available *base flood elevation* and *flood* hazard information.
  - c. Review applications to determine whether proposed activities will be reasonably safe from *flooding* and require *new construction* and *substantial improvements* to meet the requirements of these regulations.
  - d. Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, *structures*), any *alteration of a watercourse*, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency *floodplain* of free-flowing *nontidal waters of the State*.
  - e. Verify that applicants proposing an *alteration of a watercourse* have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
  - f. Advise applicants for *new construction* or *substantial improvement* of *structures* that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such *structures*; areas subject to this limitation are shown on *Flood Insurance Rate Maps* as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
  - g. Approve applications and issue permits to develop in *flood* hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

- h. Inspect or cause to be inspected, buildings, *structures*, and other *development* for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or *violations* have been committed.
- i. Review *Elevation Certificates* and require incomplete or deficient certificates to be corrected.
- j. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain *FIRMs*, including *hydrologic and hydraulic engineering analyses* prepared by or for the Town of Port Deposit, within six months after such data and information becomes available if the analyses indicate changes in *base flood elevations* or boundaries.
- k. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
  - (1) *Flood Insurance Studies, Flood Insurance Rate Maps* (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
  - (2) Documentation supporting issuance and denial of permits, *Elevation Certificates*, documentation of the elevation (in relation to the datum on the *FIRM*) to which *structures* have been *floodproofed*, other required design certifications, *variances*, and records of enforcement actions taken to correct *violations* of these regulations.
- l. Enforce the provisions of these regulations, investigate *violations*, issue notices of *violations* or stop work orders, and require permit holders to take corrective action.
- m. Advise Planning and Zoning regarding the intent of these regulations and, for each application for a *variance*, prepare a staff report and recommendation.
- n. Administer the requirements related to proposed work on existing buildings:
  - (1) Make determinations as to whether buildings and *structures* that are located in *flood* hazard areas and that are damaged by any cause have been *substantially damaged*.
  - (2) Make reasonable efforts to notify owners of *substantially damaged structures* of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of *substantially damaged* buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or *structure* to prevent additional damage.
- o. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged *structures*; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged *structures* information related to the proper repair of damaged *structures* in *special flood hazard areas*; and assisting property owners with



documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under NFIP flood insurance policies.

- p. Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Port Deposit have been modified and:
    - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
    - (2) If the *FIRM* for any annexed area includes *special flood hazard areas* that have *flood zones* that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the *FIRM* and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
  - q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for *development* in the SFHA, and number of *variances* issued for *development* in the SFHA.
3. (3.3) Use and Interpretation of *FIRM*'s. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of *special flood hazard areas*, *floodplain* boundaries, and *floodway* boundaries. The following shall apply to the use and interpretation of *FIRMs* and data:
- a. Where field surveyed topography indicates that ground elevations:
    - (1) Are below the *base flood elevation*, even in areas not delineated as a *special flood hazard area* on a *FIRM*, the area shall be considered as *special flood hazard area* and subject to the requirements of these regulations;
    - (2) Are above the *base flood elevation*, the area shall be regulated as *special flood hazard area* unless the applicant obtains a *Letter of Map Change* that removes the area from the *special flood hazard area*.
  - b. In FEMA-identified *special flood hazard areas* where *base flood elevation* and *floodway* data have not been identified and in areas where FEMA has not identified *special flood hazard areas*, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
  - c. *Base flood elevations* and designated *floodway* boundaries on *FIRMs* and in *FISs* shall take precedence over *base flood elevations* and *floodway* boundaries by any other sources if such sources show reduced *floodway* widths and/or lower *base flood elevations*.
  - d. Other sources of data shall be reasonably used if such sources show increased *base flood elevations* and/or larger *floodway* areas than are shown on *FIRMs* and in *FISs*.

- e. If a Preliminary *Flood Insurance Rate Map* and/or a Preliminary *Flood Insurance Study* has been provided by FEMA:
  - (1) Upon the issuance of a Letter of Final Determination by FEMA, if the preliminary flood hazard data is more restrictive than the effective data, it shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
  - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 1.5(C) and used where no *base flood elevations* and/or *floodway* areas are provided on the effective *FIRM*.
  - (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary *base flood elevations*, *floodplain* or *floodway* boundaries exceed the *base flood elevations* and/or designated *floodway* widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
- 4. (3.4) Permits Required and Expiration
  - a. It shall be unlawful for any *person* to begin any *development* or construction which is wholly within, partially within, or in contact with any flood hazard area established in Section 1.5, including but not limited to: filling; grading; construction of new *structures*; the *substantial improvement* of buildings or *structures*, including repair of *substantial damage*; placement or replacement of *manufactured homes*, including *substantial improvement* or repair of *substantial damage* of *manufactured homes*; erecting or installing a *temporary structure*, or *alteration of a watercourse*, until a permit is obtained from the Town of Port Deposit. No such permit shall be issued until the requirements of these regulations have been met.
  - b. In addition to the permits required in paragraph (A), applicants for permits in *nontidal waters of the State* are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates the “100-year frequency floodplain of free-flowing waters,” also referred to as *nontidal waters of the State*. To determine the 100-year frequency floodplain, hydrologic calculations are based on the ultimate *development* of the watershed, assuming existing zoning. The resulting flood hazard areas delineated using the results of such calculations may be different than the *special flood hazard areas* established in Section 1.5 of these regulations. A permit from the Town of Port Deposit is still required in addition to any State requirements.
  - c. A permit is valid provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing *special flood hazard areas* and BFEs set forth in Section 1.5.

5. (3.5) Application Required. Application for a permit shall be made by the owner of the property or the owner's authorized agent (herein referred to as the applicant) prior to the start of any work. The application shall be on a form furnished for that purpose.
- a. Application Contents - at a minimum, applications shall include:
- (1) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed *structures*, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
  - (2) Elevation of the existing natural ground where buildings or *structures* are proposed, referenced to the datum on the *FIRM*.
  - (3) Delineation of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*. *Base flood elevations* shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on *FIRMs*.
  - (4) Where floodways are not delineated or *base flood elevations* are not shown on the *FIRMs*, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from Federal, State, or other sources, or to determine such information using accepted engineering practices or methods approved by the Floodplain Administrator. [Note: See "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations" (FEMA 265).]
  - (5) Determination of the *base flood elevations*, for *development* proposals and subdivision proposals, each with at least 5 lots or at least 5 acres, whichever is the lesser, in *special flood hazard areas* where *base flood elevations* are not shown on the *FIRM*; if *hydrologic and hydraulic engineering analyses* are submitted, such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
  - (6) *Hydrologic and hydraulic engineering analyses* for proposals in *special flood hazard areas* where FEMA has provided *base flood elevations* but has not delineated a *floodway*; such analyses shall demonstrate that the cumulative effect of proposed *development*, when combined with all other existing and anticipated development will not increase the water surface elevation of the *base flood* by more than one foot or a lower increase if required by MDE.
  - (7) For encroachments in *floodways*, an evaluation of alternatives to such encroachments, including different uses of the site or portion of the site within the *floodway*, and minimization of such encroachment.

- (8) If fill is proposed to be placed for a purpose other than to elevate *structures*, the applicant shall indicate the intended purpose for the fill.
- (9) For proposed buildings and *structures*, including *substantial improvement* and repair of *substantial damage*, and placement and replacement of manufactured homes, including *substantial improvement* and repair of *substantial damage*:
- (a) The proposed elevation of the *lowest floor*, including *basement*, referenced to the datum on the *FIRM* and a signed *Agreement to Submit an Elevation Certificate*.
  - (b) The signed *Declaration of Land Restriction (Nonconversion Agreement)* that shall be recorded on the property deed prior to issuance of the Certificate of Occupancy, if the application includes an *enclosure below the lowest floor* or a crawl/underfloor space that is more than four (4) feet in height.
  - (c) A written evaluation of alternative methods considered to elevate *structures* and *manufactured homes*, if the location is in *nontidal waters of the State* and fill is proposed to achieve the elevation required in Section 5.4(A) or Section 5.5(A).
- (10) For *accessory structures* that are 300 square feet or larger in area (footprint) and that are below the *base flood elevation*, a variance is required as set forth in Section 7.0. If a variance is granted, a signed *Declaration of Land Restriction (Nonconversion Agreement)* shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- (11) For *temporary structures* and temporary storage, specification of the duration of the temporary use.
- (12) For proposed work on existing buildings, *structure*, and *manufactured homes*, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes *substantial improvement* or repair of *substantial damage*, including but not limited to:
- (a) If the existing building or *structure* was constructed after February 16, 1977, evidence that the work will not alter any aspect of the building or *structure* that was required for compliance with the floodplain management requirements in effect at the time the building or *structure* was permitted.
  - (b) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the *base building* and the nature of all other modifications to the *base building*, if any.
  - (c) Documentation of the *market value* of the building or *structure* before the improvement or, if the work is repair of damage, before the damage occurred.
  - (d) Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The

value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.

(13) Certifications and/or technical analyses prepared or conducted by a *licensed* professional engineer or *licensed* architect, as appropriate, including:

- (a) The determination of the *base flood elevations* or *hydrologic and hydraulic engineering analyses* prepared by a *licensed* professional engineer that are required by the Floodplain Administrator or are required by these regulations in: Section 4.2 for certain subdivisions and *development*; Section 5.3(A) for *development* in designated *floodways*; Section 5.3(C) for *development* in flood hazard areas with *base flood elevations* but no designated *floodways*; and Section 5.3(E) for deliberate alteration or relocation of *watercourses*.
- (b) The *Floodproofing Certificate* for nonresidential *structures* that are *floodproofed* as required in Section 5.5(B).
- (c) Certification that engineered *flood openings* are designed to meet the minimum requirements of Section 5.4(C)(3) to automatically equalize hydrostatic flood forces.
- (d) Certification that the proposed elevation, structural design, specifications and plans, and the methods of construction to be used for *structures* in *coastal high hazard areas* (V Zones) and *Coastal A Zones*, are in accordance with accepted standards of practice and meet the requirements of Section 6.3(C).

(14) For nonresidential *structures* that are proposed with *floodproofing*, an operations and maintenance plan as specified in Section 5.5(B)(3).

(15) Such other material and information as may be requested by the Floodplain Administrator and necessary to determine conformance with these regulations.

b. New Technical Data

- (1) The applicant may seek a *Letter of Map Change* by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of *floodplain* and *floodway* boundaries and/or *base flood elevations*. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.
- (2) If the applicant submits new technical data to support any change in *floodplain* and designated *floodway* boundaries and/or *base flood elevations* but has not sought a *Letter of Map Change* from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.

6. (3.6) Review of Application. The Floodplain Administrator shall:
  - a. Review applications for *development* in *special flood hazard areas* to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.
  - b. Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and other State and Federal authorities may be required.
  - c. Review all permit applications to assure that all necessary permits have been received from the Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by:
    - (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act;
    - (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean Water Act;
    - (3) MDE for construction on *nontidal waters of the State* pursuant to COMAR 26.17.04; and
    - (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
  - d. Review applications for compliance with these regulations after all information required in Section 3.5 of these regulations or identified and required by the Floodplain Administrator has been received.
7. (3.7) Inspections. The Floodplain Administrator shall make periodic inspections of *development* permitted in *special flood hazard areas*, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:
  - a. Stake-out inspection, to determine location on the site relative to the flood hazard area and designated *floodway*.
  - b. Foundation inspection, upon placement of the *lowest floor* and prior to further vertical construction, to collect information or certification of the elevation of the *lowest floor*.
  - c. Inspection of *enclosures below the lowest floor*, including crawl/underfloor spaces, to determine compliance with applicable provisions.
  - d. Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the *base flood elevation*.
  - e. Final inspection prior to issuance of the Certificate of Occupancy.
8. (3.8) Submissions Required Prior to Final Inspection. Pursuant to the *Agreement to Submit an Elevation Certificate* submitted with the application as required in Section 3.5(A)(9), the

permittee shall have an *Elevation Certificate* prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated *structures* and *manufactured homes*, including new *structures* and *manufactured homes*, substantially-improved *structures* and *manufactured homes*, and additions to *structures* and *manufactured homes*.

## **Section 161. (4.0) Requirements in All Flood Hazard Areas.**

1. (4.1) Application of Requirements. The general requirements of this section apply to all *development* proposed within all *special flood hazard areas* identified in Section 1.5.
2. (4.2) Subdivision Proposals and Development Proposals.
  - a. In all *flood zones*:
    - (1) Subdivision proposals and *development* proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
    - (2) Subdivision proposals and *development* proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
    - (3) Subdivision proposals and *development* proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed *structures*.
    - (4) Subdivision proposals and *development* proposals containing at least 5 lots or at least 5 acres, whichever is the lesser, that are wholly or partially in flood hazard areas where *base flood elevation* data are not provided by the Floodplain Administrator or available from other sources, shall be supported by determinations of *base flood elevations* as required in Section 3.5 of these regulations.
    - (5) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.
  - b. In *special flood hazard areas of nontidal waters of the State*:
    - (1) Subdivision proposals shall be laid out such that proposed building pads are located outside of the *special flood hazard area* and any portion of platted lots that include land areas that are below the *base flood elevation* shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.
    - (2) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.
3. (4.3) Protection of Water Supply and Sanitary Sewage Systems.
  - a. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
  - c. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of *flooding*.
4. (4.4) Buildings and Structures: New buildings and *structures* (including the placement and replacement of *manufactured homes*) and *substantial improvement* of existing *structures* (including *manufactured homes*) that are located, in whole or in part, in any *special flood hazard area* shall:
- a. Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. *Structures* shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from *flooding* equal to the *flood protection elevation* or the elevation required by these regulations or the *building code*, whichever is higher.
  - b. Be constructed by methods and practices that minimize flood damage.
  - c. Use *flood damage-resistant materials* below the elevation of the *lowest floor* required in Section 5.4(A) or Section 5.5(A) (for A Zones) or Section 6.3(B) (for V Zones and *Coastal A Zones*).
  - d. Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the *lowest floor* required in Section 5.4(A) or Section 5.5(A) (A Zones) or Section 6.3(B) (V Zones and *Coastal A Zones*). Electrical wiring systems are permitted to be located below elevation of the *lowest floor* provided they conform to the provisions of the electrical part of the *building code* for wet locations. If replaced as part of a *substantial improvement*, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section.
  - e. As an alternative to paragraph (D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the *lowest floor* provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.
  - f. Have the electric panelboard elevated at least three (3) feet above the BFE.



- g. If located in flood hazard areas (A Zones) that are not identified as *Coastal A Zones* and *coastal high hazard areas* (V Zones), comply with the specific requirements of Section 5.0.
  - h. If located in *Coastal A Zone*, comply with the specific requirements of:
    - (1) Section 6.0 (*new construction* and placement of new *manufactured homes*); or
    - (2) Section 5.0 (*substantial improvements* (including repair of *substantial damage*) and replacement *manufactured homes*).
  - i. If located in *coastal high hazard areas* (V Zones), comply with the specific requirements of Section 6.0.
  - j. Comply with the requirements of the most restrictive designation if located on a site that has more than one *flood zone* designation (A Zone, designated *floodway*, *Coastal A Zone*, V Zone).
5. (4.5) Placement of Fill.
- a. Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash, shall not be permitted in *special flood hazard areas*.
  - b. Fill shall not be placed in *Coastal A Zones* or *coastal high hazard areas* (V Zones) except as provided in Section 6.2.
  - c. Fill proposed to be placed to elevate *structures* in flood hazard areas (A Zones) that are not *Coastal A Zones* or *coastal high hazard areas* (V Zones) shall comply with the *floodways* requirements in Section 5.3(A), Section 5.3(B), and Section 5.3(C) and the limitations of Section 5.4(B).
6. (4.6) Historic Structures. Repair, alteration, addition, rehabilitation, or other improvement of *historic structures* shall be subject to the requirements of these regulations if the proposed work is determined to be a *substantial improvement*, unless a determination is made that the proposed work will not preclude the *structure's* continued designation as a *historic structure*. The Floodplain Administrator may require documentation of a *structure's* continued eligibility and designation as a *historic structure*.
7. (4.7) Manufactured Homes.
- a. New *manufactured homes* shall not be placed or installed in *floodways* or *coastal high hazard areas* (V Zones).
  - b. For the purpose of these regulations, the *lowest floor* of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
  - c. New *manufactured homes* located outside of *floodways*, and *coastal high hazard areas* (V Zones), replacement *manufactured homes* in any flood hazard areas, and *substantial improvement* (including repair of *substantial damage*) of existing *manufactured homes* in all flood hazard area, shall:

- (1) Be elevated on a permanent, reinforced foundation in accordance with Section 5.0 or Section 6.0, as applicable to the *flood zone*;
- (2) Be installed in accordance with the anchor and tie-down requirements of the *building code* or the manufacturer's written installation instructions and specifications; and
- (3) Have *enclosures below the lowest floor* of the elevated *manufactured home*, if any, including enclosures that are surrounded by rigid skirting or other material that is attached to the frame or foundation, that comply with the requirements of Section 5.0 or Section 6.0, as applicable to the *flood zone*.

[Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA P-85).]

8. (4.8) Recreational Vehicles. *Recreational vehicles* shall:
  - a. Meet the requirements for *manufactured homes* in Section 4.7; or
  - b. Be fully licensed and ready for highway use; or
  - c. Be on a site for less than 180 consecutive days.
9. (4.9) Critical and Essential Facilities. *Critical and essential facilities* shall:
  - a. Not be located in *coastal high hazard areas* (V Zones), *Coastal A Zones* or *floodways*.
  - b. If located in flood hazard areas other than *coastal high hazard areas*, *Coastal A Zones* and *floodways*, be elevated to the higher of elevation required by these regulations plus one (1) foot, the elevation required by the *building code*, or the elevation of the 0.2 percent chance (500-year) flood.
10. (4.10) Temporary Structures and Temporary Storage. In addition to the application requirements of Section 3.5, applications for the placement or erection of *temporary structures* and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. *Temporary structures* and temporary storage in *floodways* shall meet the limitations of Section 5.3(A) of these regulations. In addition:
  - a. *Temporary structures* shall:
    - (1) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic loads and hydrostatic loads during conditions of the *base flood*;
    - (2) Have electric service installed in compliance with the electric code; and
    - (3) Comply with all other requirements of the applicable State and local permit authorities.
  - b. Temporary storage shall not include hazardous materials.

#### 11. (4.11) Gas or Liquid Storage Tanks.

- a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
  - b. Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the *base flood elevation*, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
  - c. In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
    - (1) At or above the *base flood elevation* or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the *base flood*; and
    - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
12. (4.12) Functionally Dependent Uses. Applications for *functionally dependent uses* that do not conform to the requirements of these regulations shall be approved only by *variances* issued pursuant to Section 7.0. If approved, *functionally dependent uses* shall be protected by methods that minimize flood damage during the *base flood*, including measures to allow floodwaters to enter and exit, use of *flood damage-resistant materials*, and elevation of electric service and equipment to the extent practical given the use of the building.

## **Section 162. (5.0) Req. Flood Hazard A Zones not Coastal High Hazard V Zones or Coastal A Zones.**

- 1. (5.1) General Requirements. In addition to the general requirements of Section 4.0, the requirements of this section shall:
  - a. Apply in flood hazard areas that are not identified as *coastal high hazard areas* (V Zones) and *Coastal A Zones*. These flood hazard areas, referred to collectively as “A Zones” include *special flood hazard areas* along *nontidal waters of the State*, landward of *coastal high hazard areas* (V Zones), and landward of *Coastal A Zones* (if delineated).
  - b. Apply to all *development, new construction, substantial improvements* (including repair of *substantial damage*), and placement, replacement, and *substantial improvement* (including repair of *substantial damage*) of *manufactured homes*.
- 2. (5.2) Flood Protection Setbacks. Within areas defined by *flood protection setbacks* along *nontidal waters of the State*:
  - a. No new buildings, *structures*, or other *development* shall be permitted unless the applicant demonstrates that the site cannot be developed without such encroachment into the *flood protection setback* and the encroachment is the minimum necessary after

consideration of varying other siting standards such as side, front, and back lot line setbacks.

- b. Disturbance of natural vegetation shall be minimized and any disturbance allowed shall be vegetatively stabilized.
- c. Public works and temporary construction may be permitted.

3. (5.3) Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State.

- a. Development in Designated Floodways - For proposed *development* that will encroach into a designated *floodway*, Section 3.5(A)(7) requires the applicant to submit an evaluation of alternatives to such encroachment, including different uses of the site or the portion of the site within the *floodway*, and minimization of such encroachment. This requirement does not apply to fences that do not block the flow of floodwaters or trap debris.

Proposed *development* in a designated *floodway* may be permitted only if:

- (1) The applicant has been issued a permit by MDE; and
- (2) The applicant has developed *hydrologic and hydraulic engineering analyses* and technical data prepared by a *licensed* professional engineer reflecting such changes, and the analyses, which shall be submitted to the Floodplain Administrator, demonstrate that the proposed activity will not result in any increase in the *base flood elevation*; or
- (3) If the analyses demonstrate that the proposed activities will result in an increase in the *base flood elevation*, the applicant has obtained a Conditional Letter of Map Revision and a Letter of Map Revision from FEMA upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.

- b. Development that Includes the Placement of Fill in Nontidal Waters of the State - For proposed *development* that includes the placement of fill in *nontidal waters of the State*, other than *development* that is subject to paragraph (D), a hydraulically-equivalent volume of excavation is required. Such excavations shall be designed to drain freely.

- c. Development in Areas with Base Flood Elevations but No Designated Floodways -For *development* in *special flood hazard areas of nontidal waters of the State* with *base flood elevations* but no designated *floodways*:

- (1) The applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator as required in Section 3.5(A)(6). The analyses shall be prepared by a *licensed* professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.

- (2) The proposed *development* may be permitted if the applicant has received a permit by MDE and if the analyses demonstrate that the cumulative effect of the proposed

*development*, when combined with all other existing and potential flood hazard area encroachments will not increase the *base flood elevation* more than 1.0 foot at any point.

- d. Construction of Roads, Bridges, Culverts, Dams and In-Stream Ponds - Construction of roads, bridges, culverts, dams, and in-stream ponds in *nontidal waters of the State* shall not be approved unless they comply with this section and the applicant has received a permit from MDE.
  - e. Alteration of a Watercourse - For any proposed *development* that involves *alteration of a watercourse* not subject to paragraph (C), unless waived by MDE, the applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting such changes, including the *floodway* analysis required in Section 3.5(A), and submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a *licensed* professional engineer in a format required by MDE and by FEMA for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant. *Alteration of a watercourse* may be permitted only upon submission, by the applicant, of the following:
    - (1) A description of the extent to which the *watercourse* will be altered or relocated;
    - (2) A certification by a *licensed* professional engineer that the flood-carrying capacity of the *watercourse* will not be diminished;
    - (3) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE have been notified of the proposal, and evidence that such notifications have been submitted to FEMA; and
    - (4) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the *watercourse* so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the applicant to enter into an agreement with Town of Port Deposit specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.
4. (5.4) Residential Structures and Residential Portions of Mixed Use Structures. New residential *structures* and residential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing residential *structures* and residential portions of mixed use *structures* shall comply with the applicable requirements of Section 4.0 and this section. See Section 5.6 for requirements for horizontal additions.
- a. Elevation Requirements
    - (1) *Lowest floors* shall be elevated to or above the *flood protection elevation*.
    - (2) In *areas of shallow flooding* (Zone AO), the *lowest floor* (including *basement*) shall be elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified.

- (3) *Enclosures below the lowest floor* shall meet the requirements of paragraph (C).
- b. Limitations on Use of Fill to Elevate Structures - Unless otherwise restricted by these regulations, especially by the limitations in Section 5.3(A), Section 5.3(B), and Section 5.3(C), fill placed for the purpose of raising the ground level to support a building or *structure* shall:
- (1) Consist of earthen soil or rock materials only.
  - (2) Extend laterally from the building footprint to provide for adequate access as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency;
  - (3) Comply with the requirements of the *building code* and be placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling;
  - (4) Be sloped no steeper than one (1) vertical to two (2) horizontal, unless approved by the Floodplain Administrator;
  - (5) Be protected from erosion associated with expected velocities during the occurrence of the *base flood*; unless approved by the Floodplain Administrator, fill slopes shall be protected by vegetation if the expected velocity is less than five feet per second, and by other means if the expected velocity is five feet per second or more; and
  - (6) Be designed with provisions for adequate drainage and no adverse effect on adjacent properties.
- c. Enclosures Below the Lowest Floor
- (1) *Enclosures below the lowest floor* shall be used solely for parking of vehicles, building access, crawl/underfloor spaces, or limited storage.
  - (2) *Enclosures below the lowest floor* shall be constructed using *flood damage-resistant materials*.
  - (3) *Enclosures below the lowest floor* shall be provided with *flood openings* which shall meet the following criteria: [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures Below Elevated Buildings."]
    - (i) There shall be a minimum of two *flood openings* on different sides of each enclosed area; if a building has more than one *enclosure below the lowest floor*, each such enclosure shall have *flood openings* on exterior walls.
    - (ii) The total net area of all *flood openings* shall be at least 1 square inch for each square foot of enclosed area (non-engineered *flood openings*), or the *flood openings* shall be engineered *flood openings* that are designed and certified by a *licensed* professional engineer to automatically allow entry and exit of

floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.

- (iii) The bottom of each *flood opening* shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
- (iv) Any louvers, screens or other covers for the *flood openings* shall allow the automatic flow of floodwaters into and out of the enclosed area.
- (v) If installed in doors, *flood openings* that meet requirements of paragraphs (a) through (d), are acceptable; however, doors without installed *flood openings* do not meet the requirements of this section.

5. (5.5) Nonresidential Structures and Nonresidential Portions of Mixed Use Structures. New nonresidential *structures* and nonresidential portions of mixed use *structures*, and *substantial improvement* (including repair of *substantial damage*) of existing nonresidential *structures* and nonresidential portions of mixed use *structures* shall comply with the applicable requirements of Section 4.0 and the requirements of this section. See Section 5.6 for requirements for horizontal additions.

a. Elevation Requirements - Elevated *structures* shall:

- (1) Have the *lowest floor* (including *basement*) elevated to or above the *flood protection elevation*; or
- (2) In *areas of shallow flooding* (Zone AO), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified; and
- (3) Have *enclosures below the lowest floor*, if any, that comply with the requirements of Section 5.4(C); or
- (4) If proposed to be elevated on fill, meet the limitations on fill in Section 5.4(B).

b. Floodproofing Requirements

(1) *Floodproofing* of new nonresidential buildings:

- (i) Is not allowed in *nontidal waters of the State* (COMAR 26.17.04.11(B)(7)).
- (ii) Is not allowed in *Coastal A Zones*.

(2) *Floodproofing* for *substantial improvement* of nonresidential buildings:

- (i) Is allowed in *nontidal waters of the State*.
- (ii) Is allowed in *Coastal A Zones*.

(3) If *floodproofing* is proposed, *structures* shall:

- (i) Be designed to be dry *floodproofed* such that the building or *structure* is watertight with walls and floors substantially impermeable to the passage of water to the level of the *flood protection elevation* plus 1.0 foot, or

- (ii) If located in an *area of shallow flooding* (Zone AO), be dry *floodproofed* at least as high above the *highest adjacent grade* as the depth number specified on the *FIRM* plus three (3) feet, or at least five (5) feet if a depth number is not specified; and
- (iii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (iv) Have *floodproofing* measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of *flooding*; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12 hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
- (v) Have at least one door above the applicable flood elevation that allows human ingress and egress during conditions of *flooding*;
- (vi) Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation; maintenance of such goods; methods of installation; and periodic inspection; and
- (vii) Be certified by a *licensed* professional engineer or *licensed* architect, through execution of a *Floodproofing Certificate* that states that the design and methods of construction meet the requirements of this section. The *Floodproofing Certificate* shall be submitted with the construction drawings as required in Section 3.5(A)(13).

6. (5.6) Horizontal Additions.

- a. A horizontal addition proposed for a building or structure that was constructed after the date specified in Section 1.1 shall comply with the applicable requirements of Section 4.0 and this section.
- b. In *nontidal waters of the State* that are subject to the regulatory authority of MDE, all horizontal additions shall comply with the applicable requirements of Section 4.0 and this section and:
  - (1) If the addition is structurally connected to the *base building*, the requirements of paragraph (C) apply.
  - (2) If the addition has an independent foundation and is not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.
- c. For horizontal additions that are structurally connected to the *base building*:



- (1) If the addition combined with other proposed repairs, alterations, or modifications of the *base building* constitutes *substantial improvement*, the *base building* and the addition shall comply with the applicable requirements of Section 4.0 and this section.
  - (2) If the addition constitutes *substantial improvement*, the *base building* and the addition shall comply with all of the applicable requirements of Section 4.0 and this section.
- d. For horizontal additions with independent foundations that are not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.
  - e. A horizontal addition to a building or *structure* that is not *substantial improvement*, and is not located in *nontidal waters of the State*, is not required to comply with this section. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]
7. (5.7) Accessory Structures.
- a. *Accessory structures* shall be limited to not more than 300 square feet in total floor area.
  - b. *Accessory structures* shall comply with the elevation requirements and other requirements of Section 5.4, the *floodproofing* requirements of Section 5.5(B), or shall:
    - (1) Be useable only for parking of vehicles or limited storage;
    - (2) Be constructed with *flood damage-resistant materials* below the *base flood elevation*;
    - (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
    - (4) Be anchored to prevent flotation;
    - (5) Have electrical service and mechanical equipment elevated to or above the *base flood elevation*; and
    - (6) Have *flood openings* that meet the requirements of Section 5.4(C).

## **Section 163. (6.0) Requirements in Coastal High Hazard Areas (V Zones) and Coastal A Zones.**

1. (6.1) General Requirements. In addition to the general requirements of Section 4.0, the requirements of this section shall:
  - a. Apply in flood hazard areas that are identified as *coastal high hazard areas* (V Zones) and *Coastal A Zones* (if delineated).

- b. Apply to all *development, new construction, substantial improvements* (including repair of *substantial damage*), and placement, replacement, and *substantial improvement* (including repair of *substantial damage*) of *manufactured homes*.

Exception: In *Coastal A Zones*, the requirements of Section 5.0 shall apply to *substantial improvements* (including repair of *substantial damage*), and *substantial improvement* of *manufactured homes* (including repair of *substantial damage*) and replacement *manufactured homes*. [Note: See “Coastal Construction Manual” (FEMA P-55).]

2. (6.2) Location and Site Preparation.

- a. The placement of structural fill for the purpose of elevating buildings is prohibited.
- b. Buildings shall be located landward of the reach of mean high tide.
- c. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
- d. Site preparations shall not alter sand dunes unless an engineering analysis demonstrates that the potential for flood damage is not increased.

3. (6.3) Residential and Nonresidential Structures. New *structures* and *substantial improvement* (including repair of *substantial damage*) of existing *structures* shall comply with the applicable requirements of Section 4.0 and the requirements of this section.

a. Foundations

- (1) *Structures* shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. Pilings shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water loading values used shall be those associated with the *base flood*. Wind loading values shall be those required by applicable *building codes*. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling.
- (2) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of *structures* and their foundations to prevent transfer of flood loads to the *structures* during conditions of *flooding*, scour, or erosion from wave-velocity flow conditions, and shall be designed to minimize debris impacts to adjacent properties and public infrastructure.

b. Elevation Requirements

- (1) The bottom of the lowest horizontal structural member that supports the *lowest floor* shall be located at or above the *flood protection elevation*.
- (2) *Basement* floors that are below grade on all sides are prohibited.
- (3) The space below an elevated building shall either be *free-of-obstruction* or, if enclosed by walls, shall meet the requirements of paragraph (D). [Note: See NFIP Technical Bulletin #5, “Free-of-Obstruction Requirements.”]

- c. Certification of Design - As required in Section 3.5(A)(13), the applicant shall include in the application a certification prepared by a *licensed* professional engineer or a *licensed* architect that the design and methods of construction to be used meet the requirements of paragraph (A), paragraph (B), paragraph (D), and the *building code*.
- d. Enclosures Below the Lowest Floor
  - (1) *Enclosures below the lowest floor* shall be used solely for parking of vehicles, building access or limited storage.
  - (2) *Enclosures below the lowest floor* shall be less than 299 square feet in area (exterior measurement).
  - (3) Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or *structure*. [Note: See NFIP Technical Bulletin #9, "Design and Construction Guidance for Breakaway Walls."]
  - (4) Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.
  - (5) Walls intended to break away under flood loads shall be constructed with insect screening or open lattice, or shall be designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 pounds per square foot and no more than 20 pounds per square foot; or
  - (6) Where wind loading values of the *building code* exceed 20 pounds per square foot, the applicant shall submit a certification prepared and sealed by a *licensed* professional engineer or *licensed* architect that:
    - (i) The walls and partitions below the *lowest floor* have been designed to collapse from a water load less than that which would occur during the *base flood*.
    - (ii) The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the *base flood*; wind loading values used shall be those required by the *building code*.
    - (iii) In *Coastal A Zones*, in addition to the requirements of this section, walls below the *lowest floor* shall have *flood openings* that meet the requirements of Section 5.4(C)(3).

#### 4. (4.6) Horizontal Additions to Structures.

- a. A horizontal addition proposed for a building or *structure* that was constructed after the date specified in Section 1.1 shall comply with the applicable requirements of Section 4.0 and this section.
  - b. For horizontal additions, whether structurally connected or not structurally connected, to the *base building*:
    - (1) If the addition combined with other proposed repairs, alterations, or modifications of the *base building* constitutes *substantial improvement*, the *base building* and the addition shall comply with the applicable requirements of Section 4.0 and this section.
    - (2) If the addition constitutes *substantial improvement*, the *base building* and the addition shall comply with all of the applicable requirements of Section 4.0 and this section. [Note: The *base building* is required to comply otherwise it is an obstruction that does not comply with the *free-of-obstruction* requirement that applies to the elevated addition, see Section 6.3(B)(3).]
  - c. A horizontal addition to a building or *structure* that is not *substantial improvement* is not required to comply with this section.
5. (5.6) Accessory Structures. *Accessory structures* shall be limited to not more than 300 square feet in total floor area.
- a. *Accessory structures* shall comply with the elevation requirements and other requirements of Section 6.3 or, if not elevated, shall:
    - (1) Be useable only for parking of vehicles or limited storage;
    - (2) Be constructed with *flood damage-resistant materials* below the *base flood elevation*;
    - (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
    - (4) Be anchored to prevent flotation;
    - (5) Have electrical service and mechanical equipment elevated to or above the *base flood elevation*; and
    - (6) If larger than 100 square feet in size, have walls that meet the requirements of Section 6.3(D)(3) through (6), as applicable for the *flood zone*; and if located in *Coastal A Zones*, walls shall have *flood openings* that meet the requirements of Section 5.4(C)(3).
- 6.(6.6) Other Structures and Development. [Note: See NFIP Technical Bulletin #5, "Free-of-Obstruction Requirements."]

- a. Decks and Patios. In addition to the requirements of the *building code* or the residential code, decks and patios shall be located, designed, and constructed in compliance with the following:
  - (1) A deck that is structurally attached to a building or *structure* shall have the bottom of the lowest horizontal structural member at or above the *flood protection elevation* and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or *structure*, which shall be designed to accommodate any increased loads resulting from the attached deck.
  - (2) A deck or patio that is located below the *flood protection elevation* shall be structurally independent from *structures* and their foundation systems, and shall be designed and constructed either to remain intact and in place during *base flood* conditions or to break apart into small pieces that will not cause structural damage to adjacent elevated *structures*.
  - (3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill that is necessary for site drainage shall not be approved unless an analysis demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated *structures*.
  - (4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.
- b. Other Development. Other *development* activities shall be permitted only if located outside the footprint of, and not structurally attached to, *structures*, and only if an analysis demonstrates no harmful diversion of floodwaters or wave runup and wave reflection onto adjacent elevated *structures*. Other *development* includes but is not limited to:
  - (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
  - (2) Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under *base flood* conditions; and
  - (3) Mounded septic systems.

## **Section 164. (7.0) Variances**

- 1. (7.1) General. The Planning Commission shall have the power to consider and authorize or deny *variances* from the strict application of the requirements of these regulations. A *variance* shall be approved only if it is determined to not be contrary to the public interest

and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Planning Commission may attach such conditions to *variances* as it deems necessary to further the purposes of these regulations. The Planning Commission shall notify, in writing, any applicant to whom a *variance* is granted to construct or substantially improve a building or *structure* with its *lowest floor* below the elevation required by these regulations that the *variance* is to the floodplain management requirements of these regulations only, and that the cost of Federal flood insurance will be commensurate with the increased risk, with rates up to \$25 per \$100 of insurance coverage. A record of all *variance* actions, including justification for issuance shall be maintained pursuant to Section 3.2(K) of these regulations.

2. (7.2) Application for a Variance.
  - a. The owner of property, or the owner's authorized agent, for which a *variance* is sought shall submit an application for a *variance* to the Floodplain Administrator.
  - b. At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*; description of the *variance* sought; and reason for the *variance* request. *Variance* applications shall specifically address each of the considerations in Section 7.3.
  - c. If the application is for a *variance* to allow the *lowest floor* (A Zones) or bottom of the lowest horizontal structural member (V Zones and *Coastal A Zones*) of a building or *structure* below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the *variance* shall be recorded on the deed of the property.
3. (7.3) Considerations for Variances. The Floodplain Administrator shall request comments on *variance* applications from MDE (NFIP State Coordinator) and shall provide such comments to the Planning Commission.

In considering *variance* applications, the Planning Commission shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- a. The danger that materials may be swept onto other lands to the injury of others.
- b. The danger to life and property due to *flooding* or erosion damage.
- c. The susceptibility of the proposed *development* and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.

- d. The importance of the services to the *community* provided by the proposed *development*.
  - e. The availability of alternative locations for the proposed use which are not subject to, or are subject to less, *flooding* or erosion damage.
  - f. The necessity to the facility of a waterfront location, where applicable, or if the facility is a *functionally dependent use*.
  - g. The compatibility of the proposed use with existing and anticipated *development*.
  - h. The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
  - i. The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  - k. The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
  - l. The comments provided by MDE (NFIP State Coordinator).
4. (7.4) Limitations for Granting Variances. The Planning Commission shall make an affirmative decision on a *variance* request only upon:
- a. A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
  - b. A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
  - c. A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.
  - d. A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.

- e. A determination that the building, *structure* or other *development* is protected by methods to minimize flood damages.
- f. A determination that the *variance* is the minimum necessary to afford relief, considering the flood hazard.

## Section 165. (8.0) Enforcement

1. (8.1) Compliance Required. No building, *structure* or *development* shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
  - a. Failure to obtain a permit shall be a *violation* of these regulations and shall be subject to penalties in accordance with Section 8.3.
  - b. Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a *violation* of these regulations.
2. (8.2) Notice of Violation and Stop Work Order. If the Floodplain Administrator determines that there has been a *violation* of any provision of these regulations, the Floodplain Administrator shall give notice of such *violation* to the owner, the owner's authorized agent, and the *person* responsible for such *violation*, and may issue a stop work order. The notice of *violation* or stop work order shall be in writing and shall:
  - a. Include a list of *violations*, referring to the section or sections of these regulations that have been violated;
  - b. Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
  - c. Specify a reasonable period of time to correct the *violation*;
  - d. Advise the recipients of the right to appeal; and
  - e. Be served in person; or
  - f. Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.
3. (8.3) Violations and Penalties. *Violations* of these regulations of failure to comply with the requirements of these regulation or any conditions attached to a permit or *variance* shall constitute a misdemeanor, which shall be punishable by a fine of up to \$1,000. Any *person* responsible for a violation shall comply with the notice of *violation* or stop work order. Each day a *violation* continues shall be considered a separate offense. Nothing herein contained



shall prevent the Town of Port Deposit from taking such other lawful action as is necessary to prevent or remedy any *violation*, including seeking injunctive relief.

### **Section 166. (9.0) Subsequent Amendments and Effective Date**

1. (9.1) Subsequent Amendments. All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. This ordinance shall be amended as required by the Federal Emergency Management Agency, Title 44, Code of Federal Regulations. All subsequent amendments to this ordinance are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of the Environment. Effective date is May 4, 2015.

**Section 167.       Reserved**

**Section 168.       Reserved**

## **ARTICLE X PERMISSIBLE USES**

### **Section 169. Use of the Designations P, PC, SE and SC in the Table of Permissible Uses**

1. When used in connection with a particular use in the Table of Permissible Uses:
  - a. "P" - the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the Zoning Inspector. When used in connection with a particular use in the Table of Permissible Uses;
  - b. "PC" - the letters "PC" means that the use is permissible in the indicated zone with a zoning certificate issued by the Zoning Inspector provided the conditions stipulated in Article XI are met;
  - c. "SC" - the letters "SC" mean the conditions of approval stipulated in Article XII for the proposed use must be met and a special exception permit must be obtained from the Board of Appeals; and
  - d. "SE" - the letters "SE" mean a special exception permit must be obtained from the Board of Appeals.

### **Section 170. Board of Appeals Jurisdiction Over Uses Otherwise Permissible With a Zoning Certificate**

Notwithstanding any other provisions of this Article, whenever the Table of Permissible Uses (interpreted in the light of the applicable provisions contained in this article) provides that a use in a nonresidential zone with a zoning certificate, a special-exception permit shall nevertheless be required if the Zoning Inspector finds that the proposed use would have an extraordinary impact on neighboring properties or the general health, safety and welfare of the public. In making this determination, the Zoning Inspector shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

### **Section 171. Permissible Uses and Specific Exclusions**

1. The presumption established by this zoning ordinance is that all legitimate uses of land in the Town are provided for within at least one zoning district in the Town's planning jurisdiction. Because the list of permissible uses set forth in the Table of Permissible Uses cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
2. Notwithstanding Subsection 1., all uses that are not listed in the Table of Permissible Uses, even given the liberal interpretation mandated by Subsection 1., are prohibited. Nor shall the Table of Permissible Uses be interpreted to allow a use in one zoning district when the

use in question is more closely related to another specified use that is permissible in other zoning districts.

3. No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of the following:
  - a. Uses lawfully existing on the effective date of this Ordinance.
  - b. Special exceptions recommended by the Planning Commission and approved by the Board of Appeals, in accordance with the provisions of Article IV, Part II of this Ordinance.
4. Uses lawfully existing on the effective date of this Ordinance and rendered non-conforming by the provisions thereof shall be subject to the regulations of Article VIII of this Ordinance.
5. The following uses are specifically prohibited in all districts:
  - a. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials.
  - b. Stockyards, slaughterhouses, rendering plants.
  - c. Use of a travel trailer as a temporary or permanent residence.
  - d. Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.

## **Section 172. Accessory Uses**

1. The Table of Permissible Uses classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (a) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (b) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special-exception permit.
2. The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
  - a. Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities, so long as such activities do not fall within the definition of a home occupation.

- b. Hobbies or recreational activities of a noncommercial nature.
  - c. The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single-family dwelling.
  - d. Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.
- 3. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
    - a. Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.

### **Section 173. Permissible Uses Not Requiring Permits**

Notwithstanding any other provisions of this chapter, no zoning or special-exception permit is necessary for the following uses:

- 1. Streets.
- 2. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.
- 3. Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way.

### **Section 174. Permissible Uses Tables**

- 1. More specific use controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the classification that most closely and most specifically describes the development controls.
- 2. Table of Permissible Uses (see following pages)

## Section 175. Table of Permissible Uses

P – Permissible Use; PC – Permitted with Conditions as designated in Article XI; SC – Special Exception and meet conditions in Article XII; SE – Special Exception from BOA.

SECTION	DESCRIPTION	ZONING DISTRICTS – SECTION 108								
		R-1	RM	R-2	TR	CBD	C-1	MC		B&I
	<b>AGRICULTURAL USES</b>									
	Agriculture						P			
	Commercial Stables						P			
	Forestry						P			
193	Nursery, Commercial									SE
193	Greenhouse - on premise sales permitted									SE
187	Kennel, Commercial									SE
	<b>RESIDENTIAL</b>									
	Dwelling – Detached	P	P	P	P	P	P	P		
	Dwelling - Manufactured Home - Double-wide		P							
	Dwelling - Manufactured Home - Single Wide		P							
185	Dwelling - Single-Family Attached			PC	PC	PC		PC		
185	Dwelling – Duplex			PC	PC	PC		PC		
185	Dwelling - Semi-Detached			PC	PC	PC		PC		
176	Accessory Apartment within a principal dwelling	PC	PC	PC	PC	PC		PC		
185	Dwelling - Multi-Family			P				PC		
185	Dwelling - Townhouse			P				PC		
185	Dwelling - Apartment			PC		PC		PC		
184	Home Occupation	SE	SE	SE	SE	P	P	SE		
185	Commercial Apartment (mixed use commercial and residential)					PC	PC	PC		
186	Special Design Standards			**						
	<b>HOMES EMPHASIZING SPECIAL SERVICES, TREATMENT, OR SUPERVISION AND RESIDENTIAL ELDERLY CARE</b>									
181	Group Homes, Halfway House, Assisted Living Facilities									SE
181	- less than 9 people									SE

P – Permissible Use; PC – Permitted with Conditions as designated in Article XI; SC – Special Exception and meet conditions in Article XII; SE – Special Exception from BOA.

		<b>ZONING DISTRICTS – SECTION 108</b>								
<b>SECTION</b>	<b>DESCRIPTION</b>	<b>R-1</b>	<b>RM</b>	<b>R-2</b>	<b>TR</b>	<b>CBD</b>	<b>C-1</b>	<b>MC</b>		<b>B&amp;I</b>
181	- more than 9 but less than 16 people									SE
180	Child Day Care Center						SE			
180	- Child Day Care Center, (Less than 9 children)						SE			
180	- Child Day Care Center, (More than 9 children)									SE
	<b>MISCELLANEOUS ROOMS FOR RENT SITUATIONS</b>									
	Boarding House, Tourist homes	P	P	P	P	P	P	P		
179	Bed and breakfast, Country Inn	PC	PC	PC	PC	PC	PC	PC		
183	Hotel, Motel, Inn, Apartment Hotel, Conference Center					PC	PC	PC		
	<b>INSTITUTIONAL</b>									
	Schools, Public	SE	SE	SE	SE	SE	SE	SE		
201	Educational Institutions, Private	PC	PC	PC	PC	PC	PC	PC		
	House of Worship	SE	SE	SE	SE	P	P	P		
	Libraries, museums	SE	SE	SE	PC	PC	PC	PC		
202	Social, Fraternal Clubs and Lodges, Philanthropic Institutions	SE	SE	SE	SE	P	P	P		
	Medical Facilities									SE
206	Hospitals and Clinics, greater than 10,000 square feet									SE
189	Clinics, less than 10,000 square feet									SE
	Public buildings and structures of the cultural and administrative type	P	P	P	P	P	P	P		SE
	Rest homes and nursing homes and other institutions for human care and treatment of non-contagious diseases, Assisted Living Facilities	P	P	P						SE
207	Nursing care, intermediate care homes									SE
	Retirement housing complex/Continuing Care Retirement Facilities									SE
	Veteran Cemetery									SE
	<b>RECREATION, AMUSEMENT, ENTERTAINMENT</b>									
	Indoor recreation Facilities					P	P	P		SE
	Theatre – Indoor					P	P	P		SE

P – Permissible Use; PC – Permitted with Conditions as designated in Article XI; SC – Special Exception and meet conditions in Article XII; SE – Special Exception from BOA.

SECTION	DESCRIPTION	ZONING DISTRICTS – SECTION 108								
		R-1	RM	R-2	TR	CBD	C-1	MC		B&I
	Coliseums, Stadiums									SE
	Privately owned outdoor golf courses and country clubs, swimming or tennis clubs not constructed as part of some residential development									SE
	Privately owned outdoor golf courses and country clubs swimming or tennis clubs approved as part of some residential development									SE
178	Camping and Recreational Vehicle Parking			PC						SE
	Amusement Parks									SE
203	Golf Courses, Country Club									SE
204	Golf Driving Range, not part of a golf course									SE
	Golf-Miniature									SE
197	Swimming Pool, Commercial				SE					SE
	<b>PUBLIC AND SEMIPUBLIC FACILITIES</b>									
	Fire Stations without assembly hall	P	P	P	P	P	P	P		P
	Fire Station with Assembly Hall	P	P	P	P	P	P	P		P
	Rescue squad, ambulance service	P	P	P	P	P	P	P		P
	Police Station	P	P	P	P	P	P	P		P
	Post Office Local	P	P	P	P	P	P	P		P
	Post Office Regional						P			P
	Helicopter Facilities									SE
	<b>TRANSPORTATION</b>									
	Train station					P	P	P		SE
	Bus Depot					P	P	P		SE
	Park and Ride Facilities					P	P	P		SE
	<b>UTILITIES</b>									
	Neighborhood Essential Service	P	P	P	P	P	P	P		P
	Electric power, gas transmission & telecommunications buildings and structures									SE

P – Permissible Use; PC – Permitted with Conditions as designated in Article XI; SC – Special Exception and meet conditions in Article XII; SE – Special Exception from BOA.

SECTION	DESCRIPTION	ZONING DISTRICTS – SECTION 108								
		R-1	RM	R-2	TR	CBD	C-1	MC		B&I
208	Communication Tower, Antenna or Communications Tower Greater Than 50 Feet in Height and Associated Substation	SE	SE	SE	SE	SE	SE	SE		SE
209	Public Utilities, Public Utility Buildings and Structures	SE	SE	SE	SE	SE	SE	SE		SE
210	Satellite Dish Antennas or Receive-only Earth Stations	PC	PC	PC	PC	PC	PC	PC		SE
	<b>COMMERCIAL –SERVICE</b>									
	Service establishments				P	P	P	P		
	Clothes cleaning establishments				SE	P	P	P		
	Office Buildings				P	P	P	P		P
190	Banks, Drive-In					PC	PC	PC		
	Business services				P	P	P	P		
	Health Club					P	P	P		
192	Funeral Parlors, Undertaking Establishments, or Mortuaries					PC	PC	PC		
198	Adult Oriented Commercial Enterprises, Massage Parlors, Tattoo Shops, Etc.									SE
	<b>COMMERCIAL - RETAIL AND WHOLESALE</b>									
	Retail Establishments									
	Retail Establishments, less than 3,500 sf GFA				P	P	P	P		
	Retail Establishments, equal to or greater than 3,500 sf GFA				SE	P	P	P		
	Alcoholic Beverage Sales/Liquor Stores					P	P	P		
	Antique Shops					P	P	P		
	Wholesale sales and establishments				PC		P			
196	Shopping Center						PC			
	Restaurant, Standard				SE	P	P	P		
	Restaurant, Carry-out, Delivery					P	P	P		
191	Restaurant, Drive-thru or fast food									
	Tavern, Pub, Bar, dance hall, nightclub, cocktail lounge					P	P	P		
195	Pet Shop					PC	PC			



P – Permissible Use; PC – Permitted with Conditions as designated in Article XI; SC – Special Exception and meet conditions in Article XII; SE – Special Exception from BOA.

SECTION	DESCRIPTION	ZONING DISTRICTS – SECTION 108								
		R-1	RM	R-2	TR	CBD	C-1	MC		B&I
	<b>MOTOR VEHICLE-RELATED SALES AND SERVICE OPERATIONS</b>									
	Motor Vehicle Sales						P			
188	Motor Vehicle Filling Station						P			
	Motor Vehicle Rental						P			
	Motor Vehicle Repair and Maintenance						P			
	Car Wash						P			
	Commercial parking lot or facilities					P	P	P		
	<b>INDUSTRIAL</b>									
	Light Manufacturing									P
	Light Industry									P
	Winery			P			P			SE
	Warehouse									P
	Mini-Storage									SE
	Research and Development Facilities									P
	Data Center									P
	Cargo Container Maintenance & Storage Facility									P
	Truck Terminal									P
	Distribution Facility									P
	Micro Brewery					P	P			
	Micro Distillery					SE	SE			
194	<b>MARINA, INCLUDING BOAT SALES AND REPAIR AND BOAT RENTAL</b>									
194	Marinas and marina uses							PC		
	Wet storage and temporary docking of seaworthy craft or watercraft awaiting repairs at commercial piers, buoys or other similar facilities							PC		
	Rental of watercraft							PC		
	Maintenance and repairs of watercraft							PC		

P – Permissible Use; PC – Permitted with Conditions as designated in Article XI; SC – Special Exception and meet conditions in Article XII; SE – Special Exception from BOA.

SECTION	DESCRIPTION	ZONING DISTRICTS – SECTION 108							
		R-1	RM	R-2	TR	CBD	C-1	MC	B&I
	Launching ramps							PC	
	Yacht and sailing clubs							PC	
	Dry docks, marine railways, travel lifts, forklifts, hoists, water lifts and other similar facilities							PC	
	Covered storage of seaworthy watercraft and watercraft awaiting repairs							PC	
	Sales of watercraft, marine engines and watercraft trailers							PC	
	Marine fuel sales							PC	
	Sail making and sail repair							PC	
	Facilities for the manufacturing and storage of natural ice							PC	
	Covered facilities for wet storage of seaworthy watercraft							PC	
	Pile driving and marine construction operations							PC	
	Construction of watercraft less than 65 feet							PC	
	Outside storage related to the marina operation							PC	
	<b>MISCELLANEOUS USE</b>								
	Accessory Structures and Uses customarily associated with principle uses	PC	PC	PC	PC	PC	PC	PC	P
213	Temporary buildings and structures	PC	PC	PC	PC	PC	PC	PC	P
211	Festivals, Events of Public Interest or Special Events, Occasional, Outdoor	PC	PC	PC	PC	PC	PC	PC	
212	Storage of Recreational Vehicles, Detached Caps, Boats, and Boat Trailers	PC	PC	PC	PC	PC	PC	PC	

## **ARTICLE XI SUPPLEMENTARY USE REGULATIONS**

This Article contains regulations for specific uses that supplement the requirements found in other articles of this Ordinance. The following supplementary use regulations are applicable to both specific uses permitted by right and to uses permitted by special exception as indicated in Article X and in the Table of Permissible Uses. Whether or not a use or special exception use is permitted in the Zoning District shall be determined from Section 226. If the use is permitted or is permitted as a special exception in Section 226, then the following supplementary regulations shall apply.

### ***Part I Residential Uses***

#### **Section 176. Accessory Apartments**

An accessory apartment located within an existing residence or accessory residential structure may be permitted subject to the following conditions:

1. The owner of the residential dwelling unit in which the accessory apartment is to be located shall occupy at least one of the dwelling units on the premises.
2. An accessory apartment may be located either in the principal dwelling unit or in an accessory building.
3. Apartment size. The minimum floor area for an accessory apartment within a principal dwelling shall be 600 square feet but in no case shall it exceed 30 percent of the gross floor area of the dwelling in which it is located. For accessory apartments located in accessory buildings, the minimum floor area shall also be 600 square feet, there shall be no more than 2 bedrooms in the apartment and the apartment shall occupy less than 50 percent of the structure.
4. Exterior appearance. If an accessory apartment is located in the principal dwelling building, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a single-family residential structure and that no external entrance that faces a road or street will be added.
5. Off-street parking. Off-street parking shall be provided in accordance with the standards and requirements of Article XVI.
6. The owner is required to file for a Zoning Certificate with the Zoning Inspector and the Zoning Inspector must approve the Zoning Certificate for the accessory apartment in accordance with the conditions stated in 1-6 above.

#### **Section 177. Reserved**

## **Section 178.           Camping and Recreational Vehicle Parking**

The following definitions shall apply to camping and recreational vehicle parking:

**Agritourism** – Any activity that allows members of the general public to view or enjoy rural activities including, farming, ranching, wineries, historical, cultural or harvest your own activities, guided or self-guided tours, or temporary outdoor activities.

**Camp** - Means to place, pitch, or occupy camp facilities, including recreational vehicles, to live temporarily in a camp facility or outdoors for the purpose of temporary human habitation.

**Camping Facilities** – An area of property operated by the property owner, either gratuitously or for compensation, that is used by the property owner or by others with the property owner's permission as a camping facility. Includes, but is not limited to, tents, recreational vehicles, camper, or vehicle camping outfit.

**Recreational Camping Vehicle** – Means an enclosed, self-contained motorized vehicle or enclosed, self-contained camper pulled behind a motorized vehicle that provides a kitchen, bathroom and gray water storage facility.

**Third-party Camping or Recreational Business** – Means a third-party business operation, such as Harvest Host, Hip Camp, etc., that requires membership by the property owner and site specific rules and regulations for overnight camping opportunities.

**Special Exception** – Property in the B&I District must go through the Special Exception process for camping and recreational vehicle parking use.

Camping and recreational vehicle parking may be permitted in the R2 District if the following conditions are met:

1. Property being considered for camping or recreational vehicle parking use in the R2 District must be a minimum of two (2) acres;
2. Camping and recreational vehicle parking use must be approved by the Planning Commission and the property owner issued a Zoning Certificate by the Town of Port Deposit;
3. Property owner is required to show proof of membership and be a member in good standing in a commercial third-party camping or recreational vehicle parking business operation that provides specific rules and regulations relative to the operation of the camping site or recreational vehicle parking area. Property owner must provide the Town of Port Deposit a copy of the rules and regulations of the third-party business operation with the application;
4. Property owner will be required to renew the Zoning Certificate and show proof of membership annually and that they are a member in good standing in a commercial third-party camping or recreational vehicle parking business operation. Renewal applications do not have to be approved by the Planning Commission provided there are no changes from the previous application;

5. Camping use is limited to providing camping accommodation or recreational vehicle parking for up to a maximum of four persons.
6. Camping accommodations and recreational vehicle parking is limited to a maximum of fourteen (14) consecutive days per month, or maximum of fourteen (14) consecutive days within a designated 30-day period. Camping equipment, camping vehicle, recreational vehicle, etc., must be removed from the property after each stay. No camping equipment, camping vehicle, recreational vehicle, etc. is permitted to be kept on the property.
7. Camping use may be permitted for groups of five (5) or more people for a special event that requires a special event permit issued through the Town of Port Deposit. A special event permit is limited to a maximum of four (4) events per year.
8. Violations of the conditions of this section will result in a complaint being filed with the Cecil County Health Department that may result in compliance with the State of Maryland, COMAR Title 10.16.03 Camps and the revocation of the Zoning Certificate.

## **Section 179. Bed and Breakfasts and Country Inns**

Bed and breakfasts and country inns may be permitted subject to the following standards:

1. Off-street parking shall be provided as per the requirements of Article XVI. Parking areas shall be adequately screened.
2. The establishment shall be owner/manager occupied and managed
3. Accessory commercial activities such as weddings, graduation, and similar parties are allowed only if included as part of the special exception application.
4. Facilities for dining shall be in the location customarily used by a single family in the structure.
5. No separate kitchen shall be provided.
6. The owner is required to file for a Zoning Certificate with the Zoning Inspector and the Zoning Inspector must approve the Zoning Certificate for the use in accordance with the conditions stated in 1-5 above.

## **Section 180. Child and Elderly Care Centers.**

1. Child or elderly care centers serving between seven (7) and thirty (30) children or elderly persons which may be permitted by the Planning Commission as provided in Section 176 and child or elderly care centers serving fewer than seven (7) children or elderly persons where permitted are subject to the following:
2. A site plan must be submitted showing existing or proposed building, play area, fencing, parking, ingress and egress, and with the following: Applicant shall meet requirements of state

and local health departments for family/group care.

3. The Planning Commission may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
4. The applicant shall provide 100 square feet of usable outdoor recreation area for each child that may use this space at any one time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential area. Usable outdoor recreation areas shall be limited to the side and rear yard of the property. Recreational areas shall not include the required front yard of the property or any off-street parking areas.
5. All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.
6. Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity; and
7. The area of the property shall contain no less than 1,000 square feet per child being cared for.
8. The requirements of these sections shall not apply to child or elderly day care facilities or centers that are operated by a non-profit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

## **Section 181. Group Home, Halfway House, Assisted Living Facilities**

A group home, halfway house or assisted living facility for less than 9 individuals may be permitted in the B&I District. A group home, halfway house or assisted living facility for more than 9 but less than 16 individuals may be permitted as a Special Exception by the Board of Appeals in the B&I District subject to the following:

1. The facility must be licensed by the State of Maryland and complies with and continues to comply will all applicable Federal, State and local laws and regulations.
2. The facility shall comply with following minimum requirements unless Federal, State or County laws or regulations require a higher standard:
  - a. a minimum of 80 square feet of functional space shall be provided for single occupancy and 120 square feet for double occupancy rooms;
  - b. no more than two residents may share a room;
  - c. facilities previously licensed as domiciliary care homes must provide a minimum of 70 and 120 square feet for single and double occupancy, respectively;

- d. buildings must provide at least one toilet for every four occupants and larger buildings must also have at least one toilet on each floor; and
  - e. showers/baths must be available for every eight occupants.
- 3. Facilities not complying with current State laws and regulations shall be found to be in violation of the terms of the special exception and shall cease to operate;
  - 4. That such use will not constitute a nuisance because of noise, vehicle traffic or parking, number of residents, or any other type of physical activity;
  - 5. That such use will not, when considered in combination with other existing group homes in the neighborhood, result in an excessive concentration of similar uses in the same general neighborhood of the proposed use; and
  - 6. That the site to be used as a group residential facility for children provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.
  - 7. The Planning Commission may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
  - 8. The project shall be designed to provide a transition near the periphery of the site, either with open space areas and landscaping or by designing the buildings near the periphery to be harmonious in density and type with the surrounding neighborhood.

## **Section 182.       Reserved**

## **Section 183.       Hotels, Motels, Inns**

A hotel, motel, inn, convention center and similar businesses or institutions providing overnight accommodations may be permitted subject to the following conditions:

- 1. All the requirements imposed in the zone are met and provided further that special conditions, such as for additional fencing and/or planting or other landscaping, additional setback from property lines, location and arrangement of lighting, and other reasonable requirements deemed necessary to safeguard the general community interest and welfare, may be invoked by the Planning Commission as requisites to permitting the use.
- 2. Accessory uses may include gift shop, beauty shop, barber shop, restaurant, cocktail lounge/night club, auditorium/meeting facilities, and similar retail stores and commercial establishments. The Planning Commission may require studies of the market for specific accessory uses as well as the principal use.

3. Circulation and parking shall be adequate to fulfill requirements of all proposed uses, principal and accessory. A traffic analysis shall be provided by the applicant demonstrating adequacy of the system to the satisfaction of the Planning Commission.
4. The applicant shall design the building roof to screen mechanical equipment from public view, minimize noise, and to contribute to an attractive streetscape.
5. The applicant shall develop the public streetscape between the street-front building and the street curb as a safe and convenient pedestrian movement.
6. The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.
7. The applicant shall design fences and retaining walls that are consistent in materials and quality to that of the building and the adjacent properties.
8. The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.
9. The applicant shall integrate ground signs into the design of the site and the streetscape.
10. Vehicular access to the subject property shall not be by means of any street internal to a subdivision for one-family dwellings.
11. The owner has filed a Zoning Certificate with the Zoning Inspector and the Zoning Inspector has approved the Zoning Certificate for the use in accordance with the conditions stated in 1-10 above.

## **Section 184. Home Occupations**

Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site. The use is incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part. Home occupations within the context of the definition of home occupations provided in this Ordinance shall require a special exception from the Board of Appeals subject to the following:

1. All proposed home occupation uses, including the expansion or replacement of an existing use or structure, shall conform to the performance standards below, as well as all other applicable laws and regulations of the County, State and Federal government.
2. The home occupation and its associated structures shall conform to all applicable standards for the zoning district.
3. Home occupations shall be conducted entirely either within the residence or within an accessory structure, but not both. The area used for the home occupation shall not exceed



25% of the gross floor area of the residence. An accessory structure of more than 1,500 square feet shall not be used for a home occupation.

4. The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, odor, electrical interference, fire hazard, traffic, or any other nuisance not typically experienced in the zoning district in which the property, is located.
5. No use shall require internal or external construction features or the use of electrical, mechanical, or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.
6. Signs shall be limited to one permanent, non-illuminated sign of not more than four (4) square feet. Signs shall conform to the signage provisions of this ordinance.
7. No outside storage or material, goods, supplies, or equipment related to the operation of the home occupation shall be allowed.
8. Merchandise shall be limited only, to products manufactured or substantially altered on the premises or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchases offsite for resale.
9. To the extent that there is any sale of any item related to a home occupation, delivery of that item to the buyer should occur off the premises.
10. The home occupation shall not employ any nonresident employees.
11. Any need for parking generated by the home occupation shall be off-street and/or in the side or rear yard of the structure.
12. No commercial vehicle shall be used in connection with the home occupation for delivery of goods to or from the promises, nor parked on the property. This provision does not preclude the delivery of mail or packages by the Postal Service or by private or public shipping and courier services. Home occupations shall not generate more than an average of one truck delivery per day.
13. No more than one home occupation per residence shall be allowed.
14. Home occupations that attract customers, clients, or students to the premises shall not be allowed in multifamily dwelling units.
15. The following uses would not be appropriate as home occupations and shall not be permitted:
  - a. Motorized Vehicle and/or boat repair or painting;
  - b. Construction equipment or materials storage;
  - c. Equipment or vehicle rental;

- d. Fish or bait sales;
  - e. Furniture sales;
  - f. Funeral director, mortuary or undertaker;
  - g. Glazier's or painter's shop;
  - h. Heating, plumbing, or air conditioning services;
  - i. Laboratory or taxidermy shop;
  - j. Medical or dental clinic;
  - n. Animal hospitals; or
  - o. Child care centers
6. The following is a non-exhaustive list of uses which may be conducted as home occupations within the limits established in this section, however, uses not listed below require a special exception from the Board of Appeals:
- a. Art, handicraft, music, writing, photography, or similar studios;
  - b. Direct sale product distribution (e.g., Amway, Avon, Tupperware, etc.);
  - c. Dressmaker, seamstress, tailor;
  - d. Hair cutting and styling;
  - e. Home typing or computer services;
  - f. Mail-order sales;
  - g. Non-principal offices or physician, dentist, veterinarian, insurance agent, real estate or similar profession which typically serves several clients on a daily basis;
  - h. Offices of accountant, architect, engineer, surveyor, land planner, lawyer, income tax preparer, minister, priest, rabbi, member of a religious order, psychotherapist, counselor, personal consultant or similar professional which typically does not serve several clients on a daily basis;
  - i. Repair of small appliances, small engines and limited machining of small parts, office machines, cameras, and similar small items;
  - j. Telephone sales and order-taking; and
  - k. Tutor or teaching, with musical instruction limited to one (1) or two (2) pupils at a time.

## **Section 185. Residential Structures - Single-Family Attached & Multiple Units**

- 1. Townhouses may be permitted provided:
  - a. When more than one single family attached or multi-family building is built, no building shall be closer than 25 feet from any other building in the development.
  - b. No single family attached or multi family structure shall be constructed at a distance less than twenty (20) feet from an adjoining property line.

- c. When more than one single family attached or multifamily building is constructed, external walkways shall be paved and lighted.
- d. Off-street parking and loading spaces shall be provided in accordance with Article XVI.
- e. All areas not utilized for buildings, off-street parking or off-street loading facilities shall be landscaped and maintained in a suitable manner.
- f. Public water and sewage facilities must be available to serve the development.
- g. The number of dwelling units within the development on the site shall not exceed the maximum number of permitted dwelling units for the zone(s) in which the development is located.
- h. Both sides of rear yards may be screened with a privacy type fence or hedge of 6 feet maximum height and extending not less than fifteen (15) feet from the rear building wall and in the case of interior end units, shall not extend 3 feet forward of the rear building wall.
- i. A minimum of 20 percent of the site shall be maintained in common open space areas exclusive of front, side, or rear yards in a location
- j. All areas not occupied by buildings, roads, parking areas, service areas, or other required or permitted uses, including open spaces and usable recreation areas shall be landscaped by lawns, trees, shrubs, gardens, or other suitable ground cover.
- k. A landscaping plan and a schedule of planting shall be included with the site plan. Landscaping plans shall meet the requirements of the sediment control ordinance and other applicable regulations.
- l. No more than six dwelling units shall be contained in a townhouse structure without a setback between structures as specified below.
- m. For all single family attached or multi-family building(s) constructed, each building shall adhere to the front setback or build-to requirement of the district in which they (it) are located. Buildings over 2 stories shall observe an additional 5 feet setback for each story over 2 stories.
- n. The minimum distance between any two unattached townhouse structures shall be 25 feet. Setback between buildings in Townhouse projects designed in a courtyard fashion may be approved on a case-by-case basis.
- o. No townhouse structure shall be closer than 20 feet to any interior driveway or closer than 15 feet to any off-street parking area excluding garages built into an individual townhouse unit.

- p. All structures shall comply with all Town, County and State Codes.
  - q. All public ways or other common facilities within a townhouse cluster shall be maintained by the property owners within the townhouse cluster. Maintenance provisions shall be established as set forth in Article XIII.
  - r. A public way intended for pedestrian circulation and fire protection shall be provided between abutting rear lot lines.
  - s. Off-street parking shall be provided in accordance with the provisions of Article XVI of this Ordinance.
2. Apartments and other multi-family residential units may be permitted provided:
- a. The density shall not exceed the maximum permitted density established for the Zoning District.
  - b. A minimum of thirty (30) percent of the total tract area shall be maintained as open area. This required open area shall not be devoted to service driveways, off-street parking, or loading spaces. It is further provided that twenty (20) percent of the above-referenced open area be suitable for usable recreational space and each such recreational space shall be at least 50 feet in the least dimension with a minimum area of 5,000 square feet.
  - c. All structures will comply with all Town, County and State codes.
  - d. All buildings and structures shall be set back from the right-of-way line of any public street or adjacent property lines taking into consideration existing setbacks in the vicinity of the site, light, air and visibility considerations. This setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.
  - e. The minimum separation between any two residential structures or principal buildings on the same lot shall be sixteen (16) feet, or the minimum side yard setback for the District.
  - f. All lot area not occupied by principal and accessory structures, required off-street parking and loading, access and circulation facilities, or other required areas shall be landscaped by lawns, trees, shrubs, ground cover, and other appropriate materials. Within the required setback areas, there shall be a landscaped bufferyard meeting Bufferyard Standard B in Article XVII and Appendix B.
  - g. Signs shall be permitted in accordance with the provisions of Article XV.
  - h. Off-street parking shall be required for each use in accordance with the provisions of Article XVI.
3. Commercial apartments may be permitted in a commercial structure provided:
- a. No apartment is situated at the street level and the street level or ground floor of the structure is designed for commercial purposes; and

- b. All apartment units meet applicable building and livability codes; and
- c. The structure does not exceed the residential height permissible in the Zone District.

## **Section 186. Special Design Standards - R-2- Mixed-Use Residential District**

Following requirements, standards and guidelines shall apply to existing parcels of record that are ten (10) acres or more and located in the R-2 Mixed-Use Residential District.

### **1. Residential Density**

- a. The number of dwelling units permissible shall be determined in accordance Section 226 and with the provisions of this section.

### **2. Development Standards - The following development standards shall apply:**

- a. **Land Coverage.** The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be sixty (60) percent of the gross land area.

### **b. Minimum Required Open Space**

- (1) A minimum of twenty (20) percent of the adjusted tract acreage shall be open space including parks, recreational, habitat, forest, agriculture, stream and wetland preservation areas. Not less than ten (10) percent of the minimum required open space shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above.
- (2) Open space land shall be permanently protected through conservation easements, and may be developed for uses consisting of the following:
  - (a) Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same;
  - (b) Stables, pastures, and equestrian facilities;
  - (c) Woodlots, arboreta, and other similar silvicultural uses;
  - (d) Woodland preserve, game preserve, wildlife sanctuary, conservation meadows, or other similar conservation uses
  - (e) Municipal or public uses, public park or recreation area owned and operated by a public or private nonprofit agency, or governmental or public utility buildings or uses, not to include business facilities, storage of materials,

trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills; and

- (f) Active recreation, if it is noncommercial in nature and provided that no more than 50 percent of the minimum required open space is so used. Parking areas and any roofed structures associated with the active recreation may not be included within the 50 percent minimum.

- (3) The required open space shall be located and designed to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space as "terminal vistas" (the building or landscape seen at the end of a street, or along the outside edges of street curves) and by maximizing the visibility of external open space.
- (4) Projects shall include multiple greens, commons, or passive parks measuring a total of at least 1,000 square feet for each dwelling unit, plus 300 square feet of land for active recreation per dwelling unit.
- (5) Civic greens or squares shall be distributed throughout the neighborhood so as to be located within 2,000 feet of 90 percent of all residential units.

c. Residential Unit Mix

- (1) The following residential mix standards shall apply:

UNIT TYPE	MINIMUM PERCENTAGE	MAXIMUM PERCENTAGE
Detached Single Family Dwelling	50	80
Two Family Dwelling	10	40
Townhouse	5	40
Multi-family	5	40
Apartment	5	20

- (2) At a minimum each development shall have at least three (3) of the five (5) unit types. Each phase of a proposed project shall have at least three (3) of the five (5) unit types. The Planning Commission may vary this phase requirement if satisfied that at build-out three of five unit types are included in the overall project.

3. Design Standards - Overall Form and Spatial Relationships

a. Overall Form

- (1) Areas of new construction should be sited so as to best preserve natural vistas and the existing topography.

- (2) Peripheral greenbelt open space should be designed to follow the natural features whenever possible and to maintain an agricultural, woodland, or countryside character.

b. Block Design

- (1) Planned neighborhoods should be designed in a net-like pattern of blocks and interconnecting streets and alleys, defined by buildings, street furniture, landscaping, pedestrian ways, and sidewalks.
- (2) While topography, existing vegetation, hydrology, and design intentions should influence block shape and size, the maximum length for a block is to be five-hundred (500) feet, with an allowance for blocks up to eight hundred (800) feet when mid-block footpaths are provided. No less than one eight-foot pedestrian alley or way must be provided for every two hundred and fifty (250) feet of street frontage in the commercial zones, connecting with rear parking lots.
- (3) In order to calm traffic speeds, the use of "T" intersections, where vehicles must stop and turn to the right or to the left rather than proceeding forward in a straight line, is encouraged. At least twenty-five (25) percent of all intersections within residential areas should take this form, unless other design devices (such as traffic islands or round about, four-way stop signs, or speed tables) are employed to reduce vehicle travel speed.

c. Lot Design

- (1) Lots should have frontage onto a street, alley, or both.
- (2) Residential lots should minimize front and side yards, front-facing garages, and blank walls, and should have as narrow a width as is practicable to encourage pedestrian movement.
- (3) Footpaths and sidewalks shall ensure pedestrian access to each lot.
- (4) All public sidewalks (including informal walkways and footpaths) should:
  - (a) Be constructed of brick, concrete, concrete pavers, or concrete with brick borders;
  - (b) Be no less than four (4) feet wide; and
  - (c) Create a completely linked network of walkways connecting all uses with parks and other open space areas.

d. Building Design Standards

- (1) Residential structures should be designed to reflect this community's building tradition.
- (2) Single-family homes on lots less than 10,000 square feet in area should be designed so that approximately one-third are oriented with their gable-ends

facing the street. At least thirty-five (35) percent of these houses should have a covered front entry porch, raised a minimum of eighteen (18) inches above ground level.

- (3) Residences housing more than one family should be designed to emulate traditional buildings of this nature in Cecil's historic settlements or should be designed to resemble large single-family residences.
- (4) Stucco, brick, and painted wood clapboard siding is encouraged, as is pitched roofs with slopes between 8:12 and 12:12. Housing styles, shapes, and materials should be varied, within the overall theme of traditional town dwellings seen in the County.
- (5) If garages, carports, or other accessory structures designed for accessory parking of automobiles are front-loaded (i.e., having their large entry door facing the street), they should not be located closer to the front lot line than the foremost facade of the principal building facing the front property line (stoops, porticos, open colonnades, and open porches excluded).
- (6) Off-street parking for multifamily residences should be located at the rear of the lot, in garages accessed by lanes or alleys.
- (7) Accessory Dwelling Units
  - (a) Accessory dwellings may be permitted on the same lot with and incidental to the principal dwelling.
  - (b) Accessory dwelling units should be architecturally integrated with other buildings on the site and in the vicinity of the site..
  - (c) There should be a maximum of one accessory dwelling unit per lot.
  - (d) The gross floor area in any accessory dwelling unit should not exceed nine hundred (900) square feet.
  - (e) Exterior fire escapes are prohibited on any side of accessory dwelling units except at their rear.
  - (f) All off-street parking for accessory dwelling units should be located to the side or rear and should be visually screened from adjoining properties.

e. Streets, Sidewalks, Shade Trees, Landscaping, and Parking

(1) Streets and Sidewalks

- (a) Street patterns should form a broadly rectilinear network, with variations as needed for topographic, environmental, and other design considerations.
- (b) Streets should be designed to:



- (i) parallel and preserve existing fence lines, tree lines, hedgerows, and stone walls, and watercourses;
- (ii) minimize alteration of natural, cultural, or historic site features
- (iii) secure the view to prominent natural vistas;
- (iv) minimize the area devoted to vehicle travel;
- (v) calm traffic speeds;
- (vi) promote pedestrian movement; and
- (vii) be aligned so that the "terminal vista" (the features seen at the end of the street or along the outside edges of a street curve) is of open space elements, either man-made (greens, commons) or natural (meadows, large trees in distance).

(c) With the exception of cul-de-sacs in areas where street connections are blocked by natural features, all streets should terminate at other streets within the development, and at least two streets should provide connections to existing or proposed through-streets or collectors outside the development site, wherever practicable. For traffic-calming purposes, at least twenty-five (25) percent of the residential streets should terminate in "T" intersections where it is not possible to proceed in a straight direction, but where vehicles must come to a full stop and turn either to the right or to the left. Except for collector streets, these "T" intersections should limit street length to no more than three blocks or 1,500 feet, whichever is less.

(d) Sidewalks should link cul-de-sacs with the street network, trails, or open space behind the lots served by those cul-de-sacs.

f. Shade Trees for Street Planting

- (1) Shade trees should be planted by the developer, as part of the Conditions of Approval, along each side of all streets, public or private, existing or proposed. In locations where healthy and mature shade trees currently exist, the requirements for new trees may be waived or modified.
- (2) Such trees should be at least 2 inches to 2.5 inches in diameter, measured at chest height, when planted, and should be spaced at intervals no greater than fifty (50) feet along both sides of each street, including arterial roads, but not including rear access lanes or alleys.
- (3) Species should be selected according to the following criteria:
  - (i) cast moderate shade to dense shade in summer;
  - (ii) survive more than 60 years;

- (iii) mature height of at least 50 feet;
- (iv) tolerant of pollution and direct or reflected heat;
- (v) require little maintenance by being mechanically strong (not brittle) and insect and disease resistant;
- (f) be able to survive two years with no irrigation after establishment; and
- (g) be of native origin, provided they meet the above criteria

g. Landscaping

- (1) The applicant should submit, to the Planning Commission a comprehensive landscape master plan identifying the location and size of both existing vegetation to be retained and proposed new vegetation, typical planting materials, the phasing of landscape installation, and planting methods.
- (2) Parking lots larger than 19 spaces and/or 6,000 square feet in size should be provided with at least one shade tree for every eight (8) parking spaces or fraction thereof, located in internal planting islands and perimeter buffer strip(s) along the street edge(s) of the lot.
- (3) Trees and other public landscaping should be protected by means of suitable barriers.
- (4) The developer shall post a performance bond with the Town Commissioners of Port Deposit to ensure that any tree that dies within eighteen (18) months of planting is replaced with the same species and size, and that any tree is well maintained, specifically irrigated and fertilized, for a total of twenty-four (24) months from time of planting. If trees are removed, they should be replaced with trees of similar size, shapeliness, function, hardiness, longevity, and appearance.

h. Parking

- (1) All off-street parking should be to the side or the rear, or located within internal parking areas not visible from the street.
- (2) On-street parking spaces along the front property line should be counted toward the minimum number of parking spaces required for the use on that lot (except where there are driveway curb cuts).
- (3) On-street parking space should be designed as either parallel to the curb on both sides of the street or diagonal to the street on the storefront side, with landscaped breaks serving the pedestrian alleyways every two hundred and fifty (250) feet.
- (4) Access lanes and off-street parking areas should be located at the rear of townhouses, and multifamily residences.

## ***Part II Commercial, Office and Services***

### **Section 187. Animal Boarding Places, Kennel and Veterinary Hospitals**

A veterinary hospital, kennel or animal boarding place may be permitted by special exception provided that such animal boarding place shall be located only on a lot having an area of two acres or more and that no part of any building or area used for such purposes shall be located within 100 feet of any street or road or the nearest property line, or, in the alternative, that the animals be kept in a sound-proofed building from 8 PM to 8 am and that it shall be located only on a lot having an area of two acres or more and that no part of any building or any area used for such purposes shall be located within 50 feet of any street or road or the nearest property line or within 150 feet from any dwelling other than the house of the owner or person in control of the boarding place.

### **Section 188. Motor Vehicle Filling Stations**

1. A motor vehicle filling station may be permitted provided:
  - a. The use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed.
  - b. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.
  - c. The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density, and number of similar uses.
2. In addition, the following requirements shall be complied with:
  - a. Signs, product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways shall be prohibited.
  - b. Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential zone.
  - c. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 40 feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 45 feet in width.
  - d. Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line, and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet

between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

- e. Light automobile repair work may be done at an automobile filling station, provided that no major repairs, spray paint operation, or body or fender repair is permitted.
- f. Vehicles shall not be parked so as to overhang the public right-of-way.
- g. Adequate vehicle stacking shall be provided so as not to impair access from the street or pedestrian traffic in the area.

## **Section 189. Clinics**

Medical clinics of less than 10,000 square feet of gross floor area may be permitted subject to the following:

1. Site requirements:
  - a. Minimum lot area, 40,000 square feet.
  - b. Minimum frontage, 200 feet.
  - c. Minimum setback, 40 feet from all property lines.
  - d. Maximum building height, as specified in zone.
  - e. Location of access on business district street, arterial, or major highways.
2. Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal as required by Health Department regulations.
3. Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, shall be permitted as part of the clinic facility, subject to the following specific conditions:
  - a. All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.
  - b. The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

## **Section 190. Drive-in Banks**

Drive-in/ banks may be permitted subject to the following:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.

2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.
3. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
4. When such use abuts a residential zone or institutional premises the use shall be screened by a solid wall or a substantial, sightly, solid fence, not less than five feet in height, together with a three-foot wide planting strip on the outside of such wall or fence, planted in shrubs and evergreens three feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this ordinance.
5. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 40 feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 25 feet in width, provided that, in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 60 feet from the centerline of any abutting street or highway.
6. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off-street parking spaces otherwise required on the site.
7. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, spaces are 5 for the first station plus 2 for each additional station.
8. Vehicular access shall not be by means of any street internal to a subdivisions for single-family dwellings.

## **Section 191. Drive-in/Fast Food Restaurants**

Drive-in/fast food restaurants may be permitted subject to the following:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause

frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.

3. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
4. When such use abuts a residential zone or institutional premises the use shall be screened by a solid wall or a substantial solid fence, not less than 5 feet in height, together with a 3 foot wide planting strip on the outside of such wall or fence, planted in shrubs and evergreens 3 feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this ordinance.
5. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 40 feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 45 feet in width, provided that, in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 60 feet from the centerline of any abutting street or highway.
6. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off-street parking spaces otherwise required on the site.
7. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, spaces are 7 per station, 5 of which must be before the ordering station (intercom).
8. Vehicular access shall not be by means of any street internal to a subdivisions for single-family dwellings.

## **Section 192. Funeral Parlors, Undertaking Establishments, Crematorium, or Mortuaries**

Funeral parlors, undertaking establishments, crematorium or mortuaries may be permitted provided

1. The use will not constitute a nuisance because of noise, traffic, or type of physical activity. Such use shall be devoted to services usually incident to funeral parlor and undertaking establishment operation including, but not limited to, transportation of human remains to and from the premises; embalming, cosmetizing, and casketing of remains; visiting of the premises by decedents' families and the general public for the purpose of viewing the remains and conducting business with the establishment; delivery and storage of caskets, including a room or area devoted to display thereof, provided the cremation of remains is expressly prohibited.

2. The property and building shall conform to the following:
  - a. The percentage of the lot covered by buildings shall not exceed 25 percent.
  - b. Minimum lot area: one acre.
  - c. Minimum front yard setback: 75 feet.
  - d. Minimum side yard setback: 25 feet each side.
  - e. Minimum rear yard setback: 25 feet.
  - f. Building height limit: same as specified in the applicable zone.
  - g. Minimum frontage at the building line: 100 feet.
  - h. The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards of the community.
  - i. Special conditions, such as provisions for additional fencing or planting or other landscaping, additional setback from property lines, location, arrangement of lighting, and other reasonable requirements deemed necessary to safeguard the general community interest and welfare, as may be invoked by the Planning Commission as requisites to the approval.

### **Section 193. Greenhouses, Commercial Nurseries**

A horticultural nursery or commercial greenhouse may be, together with buildings incidental thereto, may be permitted upon a finding that such use will not constitute a nuisance because of traffic, noise, or other factors. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment, and pesticides directly related to residential gardening shall be permitted, provided that such tools and equipment are not displayed outdoors. Nothing herein shall be construed to permit the sale or storage of general hardware or power equipment. No such horticultural nursery or commercial greenhouse shall be located on a tract of land containing less than two acres and no part of any building thereon shall be less than 50 feet from the nearest property line. Greenhouses shall have a minimum setback of twice the height of the building, and storage of all materials which produce odors or attract pests shall be effectively covered.

### **Section 194. Marinas & Other Permitted Uses - Marine Commercial District**

Marinas and other permitted uses in the Marine Commercial District shall be subject to the following:

1. Dry storage of seaworthy watercraft, watercraft awaiting repairs and licensed watercraft trailers is permitted provided lanes of sufficient width are maintained between watercraft to accommodate fire and emergency equipment, as required by the State Fire Marshal.

2. Covered dry storage of seaworthy watercraft may not exceed 10,000 square feet for a one (1) acre and may not exceed 10,000 square feet plus 7,500 square feet for each acre, or part of an acre, by which the site exceeds one (1) acre, for a site larger than one (1) acre. All dry storage shall be set back at least twenty-five (25) feet from side property lines.
3. Outside storage is limited to fifty (50) percent of the total lot area.
4. The minimum lot size for a new marina shall be one-half (½) acre above the mean high water line. Each lot shall have a minimum width at the waterfront of one hundred (100) feet. Lot width at the waterfront shall be measured along a straight line drawn between the points at which the side property lines intersect the mean high water line. In cases where a lot is bound on more than one side by water, separate waterfront widths for each side may be calculated, and their totals shall measure not less than one hundred (100) feet.
5. New and redeveloped marinas shall establish a buffer along its boundary with adjacent properties meeting the Bufferyard B standard in Appendix B.

## **Section 195. Pet Shops**

Pet shops may be permitted provided:

1. The actual store or premises in which the pet shop is located is at least 75 feet from any lot in any residential zone;
2. The proposed use shall not be incompatible with, or detrimental to, any existing uses on abutting lots;
3. No animals may be kept for boarding;
4. No animals may be kept for breeding;
5. Only animals for retail sale shall be maintained or kept on the premises;
6. All animal pens shall have glass enclosed fronts and each pen or cage shall be connected to any outside ventilating system or other appropriate air filtration system. This provision shall not apply to birds that may be maintained in bird cages; and
7. There shall be no space on the exterior of that building for the maintaining or for the use of the animals, and all animals shall be maintained within the pet shop.

## **Section 196. Shopping Centers and Malls**

Shopping centers may be permitted subject to the following:



1. The shopping center shall be constructed according to an approved Comprehensive Site Plan. The Plan shall make adequate provisions for access, utilities, and adequate protection of the surrounding properties, subject to approval by the Planning Commission. As a minimum, the Comprehensive Site Plan shall contain the following information in addition to the information required in Appendix A. All site plans or plan elements shall be clearly titled, and numbered.
  - a. A Site Plan is required indicating the proposed location of all buildings, parking areas, open space, signage, vehicular and pedestrian access, and landscaping and their relationship to natural features of the site.
  - b. The Site Plan is required, which includes the proposed location and dimensions of all structures, and related areas, setbacks from property lines and other buildings, utility right-of-ways, streets, curbs, gutters, sidewalks, lighting, and fire protection measures. The Plan shall contain a tabular summary indicating:
    - (1) total area of the site;
    - (2) land area devoted to open space;
    - (3) land area devoted to buildings;
    - (4) land area devoted to parking - and total spaces;
    - (5) number of stores by use and square footage.
  - c. A copy of proposed deed restrictions, covenants, by-laws or other instruments designed to provide for continuing maintenance and control of common areas.
  - d. The architectural design of buildings shall be shown by front elevations, photographs or architectural renderings. Where a variety of designs are proposed, each design shall be shown.
  - e. If in the opinion of the Planning Commission, Zoning Inspector, or any Town department head, additional information is required to aid in the review of the project, additional elements shall be prepared.
2. General Design Standards
  - a. Buildings shall be designed so that facades, signs and other appurtenances will have an integrated and harmonious and attractively arranged, and in a manner, which will not adversely affect the appearance of surrounding developments.
  - b. Shopping centers shall be located where traffic congestion does not then exist on roads used for immediate access to the center, and where congestion is not likely to be created by the proposed center; or where such congestion will be alleviated by currently scheduled improvements to access roads, by demonstrable provision for proper exits and entrances, and by internal provision for parking and traffic circulation.

- c. Shopping centers shall be served by underground community sewer, gas, water, and electric facilities.
  - d. Passenger parking areas and freight loading areas shall be separately located and safety provisions must be made for the protection of pedestrians, including appropriate location of roadways, parking areas, sidewalks, islands, entrances, exists, crossovers and underpasses which are provided with drainage, lighting, directional signs, and supervision as may be required.
  - e. Copies of any master lease between the shopping center developers and prospective tenants must be provided. Provisions of the lease must make adequate provision for annual maintenance, security and public conveniences either with individual tenants or as the responsibility of the developer.
  - f. All roadways, parking areas and pedestrian walks shall be paved with concrete or blacktop which shall be maintained in good condition at all times and shall be properly illuminated when in use after dark in such a manner as to prevent the direct transmission of light into adjacent residential properties.
  - g. Whenever a shopping center is located adjacent to a residential development or zone district, a permanent solid fence or planted area with trees or shrubs meeting the standard of Bufferyard E in Appendix C shall be provided on the side or sides adjacent to such residential area sufficient to act as a buffer to the transmission of light and sound from the center.
  - h. All signs within the center shall be controlled by written agreement between the owners and tenants of the center, so as to avoid excessive advertising and insure attractive and harmonious appearance throughout the center. Signs should be uniform in appearance and shown on the Site Plan.
3. Access to shopping centers shall be from a major highway and may not be through a residential district.

## **Section 197. Swimming Pools, Commercial**

A commercial swimming pool, including accessory buildings, may be permitted as provided that such a use will not constitute a nuisance because of traffic, noise, or physical activity, provided that the following minimum area, frontage, and setback requirements shall be complied with:

- 1. Area: 5 acres.
- 2. Frontage: 300 feet.
- 3. Swimming pools, recreation areas, and buildings shall be at least 200 feet from any residential zone.

4. Setback: 50 feet from the front property line, 35 feet from the rear line, and 25 feet from each side property line in all other zones.

## **Section 198.           Adult Oriented Commercial Enterprises, Massage Parlors, Etc.**

Adult Oriented Commercial enterprises and services shall include the following:

1. Adult bookstores and/or adult entertainment centers
2. Escort Services and/or Escort Agencies
3. Tattoo Studios/Body Piercing Studios and/or Branding Studios
4. Pawnbrokers and/or Pawnshops
5. Palm Readers/Fortune-Tellers and/or Soothsayer
6. Smoke Lounge, Smoking Shop or Smoke Shop
7. Gun Shop
9. Bail Bondsman and Bail Bond Offices

An adult oriented enterprise(s) or service(s) may be permitted by the Board of Appeals as a Special Exception in the B&I District provided:

1. That no such establishment shall be located nearer than 1500 feet to any principal structure used as a hospital, house of worship or school;
2. That no such establishment shall be located nearer than 1,000 feet to any principal structure used as another Adult Bookstore, Adult Entertainment Center, Gun Shop, Escort Service, Escort Agency, Massage Parlor, Tattoo Studio, Body Piercing Studio, Branding Studio, Pawnbroker, Pawnshop, Palm Reader, Fortune-Teller and/or Soothsayer.
3. That no such establishment shall be located within 500 feet to any principal structure used as a residence.

## **Section 199.           Reserved**

## **Section 200.           Reserved**

## ***Part III Educational, Cultural, Religious, Philanthropic, Social, Fraternal Uses***

## **Section 201.           Education Institutions, Private**

Private education institutions may be permitted provided:

1. That such use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element that is incompatible with the environment and character of the surrounding neighborhoods; and
2. That, except for buildings and additions thereto completed, or for which building permits have been obtained prior to the time of adoption of this section, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhoods, and, in the event that such building is to be located on a lot, tract, or parcel of land of 2 acres or less, in either an undeveloped area or an area substantially developed with single-family homes, that the exterior architecture of such building will be of a residential home design and at least comparable to existing residential homes, if any, in the immediate neighborhood; and
3. That such use will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and
4. That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access, and screening requirements, where specified:
  - a. Area, frontage, and setback. As shall be specified in a site plan of development approved by the Planning Commission, provided that in no event shall such standards be less than the area regulations for the zone in which the private educational institution is proposed to be located; and
  - b. Access building coverage and screening. As shall be specified in a site plan of development approved by the Planning Commission; and
  - c. Density. Such density, being the allowable number of pupils per acre permitted to occupy the premises at any one time, as shall be specified by the Board upon consideration of the following factors:
    - (1) Traffic patterns, including:
      - (a) Impact of increased traffic on residential streets;
      - (b) Existence of arterial highways; and
      - (c) Noise or type of physical activity;
    - (2) Character, percentage, and density of existing development and zoning within the community; and
    - (3) Topography of the land to be used for the special exception, provided that in no event shall a special exception be granted for a density in excess of 87 pupils per acre.

5. If the school offers general academic instruction below college level, an outdoor play area (or other outdoor activity area) shall be required that shall have a usable space of at least 100 square feet per student. The area shall be located at least 25 feet from any adjoining lot.
6. Exemptions. The requirements of this section shall not apply to the use of any lot, lots, or tract of land for any private educational institution or parochial school that is located in a building or on premises owned or leased by any church or religious organization, the government of the United States, the State of Maryland, or any agency thereof, Cecil County, or the Town of Port Deposit.
7. Non-conforming uses. Nothing in this Ordinance shall prevent any existing private educational institution that obtained a special exception prior to the effective date of this Ordinance from continuing its use to the full extent authorized under the resolution granting the respective special exception.

## **Section 202. Social, Fraternal Clubs and Lodges, Philanthropic Institutions**

Social, fraternal clubs and lodges, philanthropic institutions may be permitted upon a finding that the proposed use will not constitute a nuisance because of noise, traffic, number of people, or type of physical activity, subject to the following minimum area, frontage, and setback requirements:

1. Total area: 25,000 square feet minimum
2. Frontage: 150 feet minimum
3. Setback: 25 feet from all property lines.

## ***Part IV Recreation, Amusement, Entertainment***

### **Section 203. Golf Courses and Country Clubs**

A golf course, country club, private club, or service organization including community buildings, may be permitted upon a finding that the proposed use will not adversely affect surrounding residential uses because of noise, traffic, number of people, or type of physical activity, providing that the following standards and requirements can be met:

1. The provision of food, refreshments, and entertainment for club or organization members and their guests may be allowed in connection with such use, provided the availability of such services is not reasonably expected to draw an excessive amount of traffic through local residential streets.
2. All buildings shall conform to the height, coverage, and setback regulations of the zone in which they are located, and all facilities shall be so located as to conform to other special exception standards.
3. All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area.

4. A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to single-family dwelling districts or uses.
5. Vehicular access shall be derived from an arterial street.
6. Twenty parking spaces shall be provided per 9 holes and one space per 500 square feet of club floor area.
7. A minimum 50-foot buffer shall be provided adjacent to the clubhouse/office and parking areas when said facilities are located adjacent to single-family dwelling districts or uses.
8. A minimum 25-foot buffer shall be provided adjoining single-family zoning or uses not part of the golf course development.
9. Off-street parking and loading areas, tennis courts, golf tees, and maintenance facilities may require additional screening as determined by the Board.

#### **Section 204.        Golf Driving Range**

A golf driving range may be permitted provided that the surrounding area is predominantly undeveloped.

#### **Section 205.        Reserved**

### ***Part V Institutional Residence or Care or Confinement Facilities***

#### **Section 206.        Hospitals, Clinics and Other Medical Treatment Facilities**

Hospitals, clinics in excess of 10,000 square feet, and other medical treatment facilities may be permitted by special exception subject to the following:

1. A lot or parcel or tract of land to be used for a hospital or sanitarium building may be allowed, upon a finding by the Board of Appeals that such use will not constitute a nuisance because of noise, traffic, or number of people being cared for; that such use will not affect adversely the present character or future development of the surrounding residential community; and, if the lot, parcel, or tract of land on which the buildings to be used by such institution are located, conforms to the following minimum area, frontage, and setback requirements, off-street parking, green area requirements, and building height limit:
  - a. Total area: 5 acres minimum
  - b. Frontage: 200 feet minimum
  - c. All structures shall be located at least 200 feet from any adjacent residential lot and 50 feet from any other use.
  - d. All parking areas shall be located at least 50 feet from any adjacent residential lot and shall be limited to a minimum of parking in the front yard.

- e. Accessory uses may include recreational and educational services, therapy areas, retail stores, personal and professional services, and health services, provided that use of these facilities is limited to on-site patients and their guests.
- f. A minimum of 40 percent of the gross site area shall be open space. The open space shall be generally continuous, accessible to the patients, and protective of natural features.
- g. Building height limit as determined by the Board of Appeals, but in no case more than 100 feet.
- h. A resolution approving the establishment by the Health Department shall be filed with the petition for a special exception.
- i. The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.

## **Section 207. Nursing Care or Intermediate Care Home**

A nursing home or intermediate care home for more than nine (9) people may be permitted subject to the following:

1. The Zoning Inspector finds that such use will not constitute a nuisance because of traffic, noise, or number of patients or people being cared for; that, except for buildings completed prior to the time of adoption of this section and additions thereto, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood; that such use will not adversely affect the present character or future development of the surrounding residential community; and that such use can and will be developed in conformity with the following minimum area, density, coverage, frontage, setback, access, and screening requirements where specified:
2. All care institutions hereafter established and all additions to existing homes where nine or more people are cared for:
  - a. Minimum lot area, as stated in the applicable zone, but in no case less than one acre.
  - b. Maximum density - 40 beds per acre.
  - c. Maximum coverage, as required in the applicable zone.
  - d. Minimum lot frontage, as stated in the requirements for the applicable zone.
  - e. Minimum setbacks.
    - (1) Front yards, as specified for the applicable zone, except that, for purposes of this section, all yards facing a street shall be considered front yards.
    - (2) Side yards. 50 feet plus one foot for each bed.

- (3) Back yards: one-half of the total of both side yards as required in paragraph (b) above, but not less than the minimum required in the applicable zone.
- f. Minimum screening, as determined by the Board with special attention given to off-street parking and loading areas in accordance with Articles XVI and in no case less than bufferyard 'C' as shown in Appendix C.
- g. The Board shall increase the number of off-street parking spaces required for nursing or care homes under Article XVI where the operation or method of operation, or type of care to be provided, indicates such increase will be needed.
3. Those people who hold valid special exceptions for nursing or care homes to be built in the future may proceed under the provisions of this chapter as it existed immediately prior to enactment of this Ordinance.

## ***Part VI Towers and Other Structures***

### **Section 208.        Antenna or Communications Tower and Associated Substation**

An antenna or tower greater than 50 feet in height and associated substations (radio, television, microwave broadcasting, etc.) may be permitted as a Special Exception by the Board of Appeals in any district provided:

1. All structures shall be located at least 200 feet from an existing dwelling.
2. A minimum 10-foot landscape strip shall be required and maintained around all property lines exterior to any fence or wall.
3. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Ordinance shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.

### **Section 209.        Public Utility Buildings and Public Utility Structures**

In any zone, a public utility building or public utility structure not otherwise permitted, including radio and television broadcasting stations and towers (but not including electric power transmission or distribution lines carrying in excess of 69,000 volts, may be permitted as a Special Exception by the Board of Appeals provided:

1. The proposed building or structure at the location selected is necessary for public convenience and service.



2. The proposed building or structure at the location will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.
3. Public utility buildings in any permitted residential zone shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting, and fencing, wherever deemed necessary by the Board.
4. Signs in connection with a public utility building or structure shall be governed by the provision of this Ordinance.
5. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Ordinance shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.
6. Examples of public utility buildings and structures for which special exceptions are required under this section are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices for supply electric service; telephone offices; railroad, bus, trolley, air, and boat passenger stations; radio or television transmitter towers and stations.
7. In any residential zone, overhead electric power and energy transmission and distribution lines carrying in excess of 69,000 volts may be permitted where the Board finds:
  - a. The proposed use does not have an unduly adverse effect on the general plan for the physical development of the district as embodied in this Ordinance and in the comprehensive plan or portion thereof adopted by the Town Council;
  - b. The proposed use will not adversely affect the health and safety of the residents or workers in the area;
  - c. There is a public necessity for the proposed building, structure, or facility at the location selected; and
  - d. The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.
8. In making such findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:
  - a. Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;
  - b. Proximity of the line to schools, churches, theaters, clubs, museums, fair grounds, or other places of assembly, either existing or proposed;

- c. The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, either existing or proposed;
  - d. Any fire hazard or interference with fire fighting equipment due to the location and construction of the proposed line;
  - e. Proximity of the line to public parks and recreational areas, either existing or proposed;
  - f. Effect upon property values of those who will not be compensated for a taking under the laws of the state;
  - g. The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and green belt areas surrounding satellite community development; and
  - h. Proximity of the line to historic sites and structures.
9. In addition to the authority granted by this section, the Board may attach to any grant of a special exception under this section other conditions that it may deem necessary to protect the public health, safety, or general welfare.
10. Petitions for special exception under this section may be filed on project basis. A petitioner under this section shall be considered an interested person for purposes of filing a request for a special exception if he states in writing under oath that he has made a bona fide effort to obtain a contractual interest in the subject property for a valid consideration without success and that he intends to continue negotiations to obtain the required interest or, in the alternative, to file condemnation proceedings should the special exceptions be granted.

## **Section 210.            Satellite Dish Antennas or Receive-only Earth Stations**

- 1. A satellite dish may be permitted subject to the following conditions:
  - a. It is ground mounted.
  - b. It is not located in a front yard or side yard, said yard to be measured from any portion of the principal building to the front or exterior side of the property line.
  - c. It complies with the setback requirements of the underlying zone for accessory structures.
  - d. It does not exceed 15 feet in height above the existing grade.
  - e. It shall be located on lots where at least a six-foot high solid wall or fence is installed between the dish antenna and the adjacent properties.

- f. It shall be adequately screened from any adjacent residential zone, right-of-way, or private street easements, at horizontal grade level to the satisfaction of the Planning Commission.
- g. Only one satellite dish shall be permitted per lot.
- h. Satellite dish antennas with diameter measuring less than 24 inches may be installed in a manner consistent with typical television antennas.
- i. A building permit shall be required. The plans of such antenna shall be submitted with each application for a building permit, which shall include a site plan indicating the height, diameter, color, location, setbacks, foundation details, landscaping and screening and shall be subject to approval by the Planning Commission.
- j. Where a satellite dish is located on a building site that is fronting upon two or more streets, the antenna shall be maintain the same setback for each such street and shall be screened as stated above.
- k. Under no circumstances shall a satellite dish be utilized as a sign in any zone.
- l. Satellite dish antennas and their appurtenances shall be neutral in color or painted such a color as to blend in with the surrounding environment.
- m. Satellite dish antennas, appurtenances, landscaping and screening shall be kept and maintained in good condition.
- n. The antennas shall be permanently ground-mounted. No antenna shall be installed on a portable or movable structure, such as a trailer.
- o. No antenna shall exceed an overall diameter of 3 feet or an overall height of 15 feet above the existing grade.
- p. Satellite dish antennas shall be of non-combustible and corrosive resistant materials erected in a secure wind resistant manner to protect the safety and welfare of the community.

## ***Part VII Miscellaneous Use***

### **Section 211. Occasional Festivals, Events of Public Interest or Special Events, Seasonal Business and/or Use**

Occasional outdoor festivals or special events, including, but not limited to horse shows, carnivals, dog shows, arts and crafts shows, music festivals, etc., and seasonal business or use may be permitted in any district provided:

- 1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.

2. A site plan or drawing to scale shall accompany the application for a public event or seasonal business and/or use that clearly shows the location of displays, trailers, tents, tables/chairs, stages, parking, etc., and shall accurately depict the standards of this section.
3. Outdoor activities for public events and seasonal businesses and/or uses shall be located and conducted in a manner that shall not disturb adjacent property owners or land uses, or create excessive or offensive noise, fumes, odor, lighting, or trash, etc. All outdoor activities and operations shall end by 10:00 p.m.
4. Outdoor activities for public festivals and events, events of public interest, including temporary sanitary facilities and trash receptacles, may not be located within 50 feet of a residential district and shall not block an entrance or exit of an adjoining property.
5. For events of 200 or more people, separate recycling receptacles shall be provided as required in the Cecil County Recycling Plan. Vehicular access shall be derived only from an arterial or major collector.
6. Non-recurring festivals or events shall not exceed seven (7) days in any 12 consecutive months.
7. Seasonal businesses or uses shall not exceed a maximum six (6) months per years.
8. Vehicular access shall be derived only from an arteria or major collector.
9. In cases where it is deemed necessary, the Mayor and council may require the applicant to post a bond to ensure compliance with the conditions of the conditional use permit.
10. If the permit application requests the Town to provide extraordinary services or equipment or it is otherwise determined that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. These requirements shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.
11. Applications for a festival or event in Marina Park that requires park amenities (boat launch, parking, fishing, playground, etc.) to be closed to the public shall be approved by the Mayor and Council.
12. Applicant is solely responsible for compliance with all applicable provisions of applicable State, County, and Municipal law required for the use permitted.
13. Applications and permits issued pursuant to this Section are subject to terms and conditions printed on applications and permit forms approved and adopted by the Mayor and Town Council from time to time by Resolution.

## **Section 212. Storage of Recreational Vehicles, Detached Caps, Boats and Boat Trailers**

Storage of recreational vehicles, detached caps, boats, and boat trailers may be stored on premises is subject to the following limitations:

1. The vehicle of boat shall not be used for living quarters nor shall any business be conducted there from;
2. These vehicle may not be stored in front yards. They may be stored in rear or side yards provided that they are at least 3 feet from the property line and in the case of side yard storage, provided that they are at least 3 feet from the property line and are situated at least 10 feet to the rear of a lateral projection of the front foundation of the building. Such vehicle may be stored in any completely enclosed garage.
3. Such vehicle may be stored on a specially marked parking area of a multi-family rental or condominium unit for residents only. Such areas must be screened from adjacent off-site uses as required by the Planning Commission.
4. A recreational vehicle may be parked on any portion of a residential or mixed commercial property for a period not more than 24 hours during loading or unloading only.

## **Section 213. Temporary Structures for Emergency, Construction, or Repair Residence**

Temporary structures used in circumstances of emergency, construction or repair may be permitted by the Zoning Inspector or Town Administrator subject to the following:

1. Temporary residences used on construction sites of non-residential premises shall be removed immediately upon the completion of the project.
2. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within 6 months after the date of issuance, except that the Zoning Inspector or Town Administrator may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

## **Section 214. Reserved**

## **Section 215. Reserved**

## **ARTICLE XII DENSITY AND DIMENSIONAL REGULATIONS**

### **Section 216. Minimum Lot Size**

Subject to the provisions of Section 222, all lots shall have at least the amount of square footage indicated for the appropriate zone. The total gross floor area in all buildings on the lot shall be considered in determining the adequacy of lot area.

### **Section 217. Residential Density**

1. Subject to Subsection 2. and the provisions of Section 222, every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the Schedule of Zone Regulations (Section 226). In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.
2. The maximum residential density permissible on a tract of land shall be as set forth in the Schedule of Zone Regulations (Section 226).

### **Section 218. Minimum Lot Widths**

1. No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
  - a. Could be used for purposes that are permissible in that zoning district, and
  - b. Could satisfy any applicable setback requirements for that district.
2. The Schedule of Zone Regulations (Section 226) indicates minimum lot widths and depths that are recommended and are deemed presumptively to satisfy the standard set forth in Subsection 1.
3. No lot created after the effective date of this ordinance that is less than the recommended width shall be entitled to a variance from any building setback requirement.
4. Lot Shape. Excessive depth in relation to width should be avoided, with a proportion of 2.5 to 1 normally considered a desirable maximum for lot widths of 60 feet or greater with the shorter dimension oriented to the street frontage. Pointed or very irregular-shaped lots shall be avoided where possible. Additional depth of at least 20 feet over the minimum lot depth shall be required on lots that through lots.

### **Section 219. Building Setback Requirements**

1. Subject to Sections 222 and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot or property line than is authorized in the table set forth in this Section 226.
  - a. If the lot or property line is not readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from the boundary line of any adjacent right-of-way. If the boundary line of the right-of-way is not readily determinable the setback shall be measured from the edge of the right-of-way plus five feet to

accommodate an existing or proposed sidewalk, and half the width of the right-of-way shall be added to the minimum setback requirement.

- b. As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
- c. As used in this section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

- (1) Gas pumps and overhead canopies or roofs.

- (2) Fences running along lot boundaries adjacent to public street rights-of-way if such fences exceed six feet in height and are substantially opaque.

- (3) Porches or arcades.

- d. Notwithstanding any other provision of this chapter, a sign may be erected on or affixed to a structure that (1) has a principal function that is something other than the support of the sign (e.g., a fence), but (2) does not constitute a building as defined in this chapter, only if such sign is located so as to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.

## 2. Front Yards.

- a. Front yards not parallel to the building. Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the otherwise required front yard, provided however, that such front wall shall at all points be within five (5) feet of the otherwise required front yard depth.
- b. The Planning Commission may establish a "build-to line" in existing residential neighborhoods. Where established, the "build-to line shall dictate the placement of a building or structure from the street right-of-way line on which the building fronts. On a corner lot, the build-to line applies to both sides of the lot which have street frontage. The front porch shall be placed on the build-to line. Variations of zero to fifteen feet (0' to 15') of the distance from the street right-of-way to the build-to line may be permitted to create variety in streetscape. Whenever a building does not front on a right-of-way, the build-to line shall be measured from the edge of the pavement of an access way in front of or on the side of the building.

## 3. Side Yards. Side yard exceptions for attached dwellings. In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

4. Rear yards. Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard provided however, that such rear wall shall at all points be within three (3) feet of the otherwise required rear yard depth.
5. Yard requirements adjoining a more restrictive zone. Where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the zone with the less restrictive yard requirements shall equal the adjoining side or rear yard (as appropriate) of the zone with the more restrictive yard requirements.
6. Setback distances shall be measured from the street right-of-way line and include at least five (5) feet for a sidewalk (existing or proposed) to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).
7. Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:
  - a. If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.
  - b. If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.
8. Walls and Fences.
  - a. Definitions
    - (1) *Fence* - Any structure regardless of composition, except a living fence, that is erected or maintained for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions.
    - (2) *Fence Height* - The distance measured from the existing grade to the top of the fence.
  - b. Application for Permit - Any person or persons, corporation, firm or association intending to erect a fence or wall shall, before any work is commenced, make application for permit. Application shall be accompanied by a plan or sketch showing the proposed location of any fence, the material proposed to be used, which must be in accordance with this Ordinance, and be accompanied by an appropriate fee. Upon approval by the Zoning Inspector a permit shall be issued which will be in effect for a period of one (1) year from the date thereon.
  - c. Height Limitations - Rear, front and side yards. No fence shall be more than six (6) feet in height at the rear of homes or buildings situated in all residential zoned districts. No fence shall extend forward of the rear building line more than three (3) feet beyond any existing building or proposed building. No other fence or portions of a fence shall be higher than forty-eight (48) inches.



- d. No front yard fences are allowed in townhouse projects.

#### 9. Materials and Composition

- a. Any fence, wall or similar structure, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction affecting the public safety is prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
- b. The following fences and fencing materials are specifically prohibited:
  - (1) Barbed wire.
  - (2) Pointed fences less than three (3) feet in height.
  - (3) Canvas fences.
  - (4) Cloth fences.
  - (5) Electrically charged fences.
  - (6) Poultry fences.
  - (7) Turkey wire.
  - (8) Temporary fences such as snow fences.
  - (9) Expandable fences and collapsible fences, except during construction of a building.
- c. All chain link fences erected shall be erected with the closed loop at the top of the fence.
- d. All entrances or gates shall open into the property.
- e. A permit may be issued for the construction of a security fence for commercial and industrial properties, upon application.
- f. All fences or walls must be erected so as not to encroach upon a public right-of-way or easements unless a waiver is granted by the Town Council of Port Deposit with the stipulation that the fence be removed or relocated upon request by appropriate town officials. All fences or walls must be erected with the property line, and none shall be erected so as to interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.

#### 10. Powers and Duties of the Zoning Inspector

- a. The Zoning Inspector shall have the authority to approve, direct in writing, the removal or modification of any fence, wall, hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles

at street intersections or curbs. Any person who shall refuse or neglect to comply with the written direction of the Zoning Inspector shall be guilty of a violation of this Ordinance and shall be subject to its penalties.

11. Violation and Penalties

- a. Any violator of any of this provision of this chapter shall be guilty of a misdemeanor and shall be punished as provided in the Article VII.

12. Appeals

- a. Any change, other than provided in the provision of this Ordinance, as to height, area, size, location or materials uses, shall not be allowed unless approved by the Board of Appeals.

13. Projections

- a. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like may extend no more than 24 inches into any required yard.

**Section 220. Accessory Building Requirements**

1. The following provision shall regulate the location of accessory buildings with respect to required yards:
  - a. Accessory buildings shall be prohibited in any required front yard or side street side yard.
  - b. Accessory buildings shall be distant at least five (5) feet from rear lot boundary lines.
  - c. Where an accessory building is located in a district requiring a side yard and such building is entirely to the rear of the principal structure, the accessory building shall be located at least three (3) feet from any side or rear lot line. Where an accessory building is located in a district not requiring a side yard, the accessory building shall be located at least three (3) feet from the side lot line.
  - d. Where any portion of an accessory building projects between a principal structure and the side lot line, the accessory building shall comply with the required side yard restriction for a principal structure on that lot.
  - e. Where a corner lot adjoins in the rear a lot in any residential zone, no part of an accessory building within 25 feet of the common lot line shall extend closer to street than the actual or required (whichever is less) depth of the front yard for the principal structure on adjoining lot.
2. Accessory buildings shall not exceed the maximum height restriction for the zone in which they are located.
3. Accessory buildings in residential zones shall not exceed the lot coverage nor the total square footage of the building to which it is accessory.

4. Where the high point of the roof or any appurtenance of any accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.
5. On any lot used for residential purposes whose rear yard abuts upon any alley, customary accessory uses may be permitted without regard to rear yard requirements, provided no portion of any structure obstructs the alley or in any way reduces public or private access for customary accessory uses.

## **Section 221. Building Height Limitations**

1. For purposes of this section:
  - a. Except as hereinafter provided, no building or structure, or part thereof, shall hereafter be erected or altered to a height greater than the maximum specified for the respective zone.
  - b. The "height" of a wall or structure or a part of a building is the vertical distance from the highest point of a structure, excepting chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.
  - c. Where a lot abuts on two or more streets or alleys, of different average established grades in front of the lot, the higher of such grades shall control.
  - d. A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than 75 percent are regarded as walls.
2. Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as indicated in The Schedule of Zone Regulations.
3. Exceptions to height limits. Notwithstanding other regulations in this Article or the maximum specified for the respective zone, the height limits of this Zoning Ordinance shall not apply to the following:
  - a. Church spires, belfries, and cupolas, not for human occupancy; water towers, chimneys, flag poles, radio tower, masts, and aerials.

## **Section 222. Density on Lots Where Portion Dedicated to the Town**

1. Subject to the other provisions of this section, if (1) any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and (2) before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.
2. If the proposed use of the remainder is a single-family detached residential subdivision, then the minimum lot size and minimum setbacks in such subdivision may be reduced, as determined appropriate by the Planning Commission to achieve the development, and the

permitted density shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

3. If the proposed use of the remainder is a two-family or multi-family project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
4. If the portion of the tract that remains after dedication as provided in Subsection 1. is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in Subsections 2. and 3.

**Section 223.       Reserved**

**Section 224.       Reserved**

**Section 225.       Reserved**

## Section 226. Schedule of Zone Regulations

	Minimum Lot Criteria					Minimum Yard Requirements (feet)			Max. Height		Density/Intensity	Min.Open Space	Min.Tract Size
Districts	Area (sq. ft.)	Per DU. (sq. ft.)	Width (feet) [1]	Depth (feet)	Road Frontage (feet)	Front	Side [2]	Rear	Water side (feet) Max 3 stories	Cliff side (feet) Max 4 stories	Max FAR or DU'S/ac	OSR	(acres)
R-1	9,000	9,000	50	100	50	0-15	0-5	3	35	55	4	0.20	na
RM	9,000	9,000	50	100	50	0-15	0-5	3	35	55	4	0.20	na
R-2													
- Detached Single Family and Single Family Attached	8,000	8,000	40	80	40	0-15	0-5	3	35	55	4.5	0.20	na
- Townhouse	1,500	1,500	16	80		0-15	0-5	3	35	55	4.5		
- Duplex/Semi-Detached	9,000	4,500	40	80		0-15	0-5	3	35	55	4.5		
- Multi-family	8,000	na	50	100	50	0-15	0-5	3	35	55	6		
- Apartments	8,000	na	50	100	50	0-15	0-5	3	35	55	6		
TR													
- Detached Single Family and Single Family Attached	5,000	5,000	40	80	40	0-15	0-5	3	35	55	6	na	na
- Townhouse	1,500	1,500	16	80		0-15	0-5	3	35	55	4.5		
- Duplex/Semi-detached)	8,000	4,000	40	80		0-15	0-5	3	35	55	4.5		
-Multi-family	8,000	na	50	100	50	0-15	0-5	3	35	55	6		
-Apartments	8,000	na	50	100	50	0-15	0-5	3	35	55	6		
- Non-residential	na	na	na	na	na						na		na
CBD													
Residential													

	Minimum Lot Criteria					Minimum Yard Requirements (feet)			Max. Height		Density/Intensity	Min.Open Space	Min.Tract Size
Districts	Area (sq. ft.)	Per DU. (sq. ft.)	Width (feet) [1]	Depth (feet)	Road Frontage (feet)	Front	Side [2]	Rear	Water side (feet) Max 3 stories	Cliff side (feet) Max 4 stories	Max FAR or DU'S/ac	OSR	(acres)
- Detached Single Family and Single Family Attached	1,080	1,080	18	60	18	0-15	0-5	3	35	55	6	na	na
- Duplex/Semi-detached)	8,000	4,000	40	80		0-15	0-5	3	35	55	4.5		
- Townhouse	1,080	1,080	18	60		0-15	0-5	3	35	55	4.5		
-Multi-family	8,000	na	50	100	50	0-15	0-5	3	35	55	6		
-Apartments	8,000	na	50	100	50	0-15	0-5	3	35	55	6		
Non-residential	na	na	na	na	na						na		na
C-1													
Residential													
- Detached Single Family and Single Family Attached	5,000	5,000	18	40	40	0-15	0-5	3	na	55	6	na	na
- Duplex/Semi-detached)	8,000	4,000	18	40		0-15	0-5	3	na	55	4.5		
- Townhouse	1,500	1,500	18	80		0-15	0-5	3	na	55	4.5		
-Multi-family	8,000	na	50	80	50	0-15	0-5	3	na	55	6		
- Apartments	8,000	na	50	80	50	0-15	0-5	3	na	55	6		
Non-residential	na	na	na	na	na						na		na
MC													
Residential													
- Detached Single Family	5,000	5,000	40	80	40	0-15	0-5	3	35	na	6	na	na
- Multi-family	8,000	na	50	100	50	0-15	0-5	3	42	na	18		
- Townhouse	1,500	1,500	16	80		0-15	0-5	3	42	na	12		
- Apartments	8,000	na	50	100	50	0-15	0-5	3	42	na	18		

	Minimum Lot Criteria					Minimum Yard Requirements (feet)			Max. Height		Density/Intensity	Min.Open Space	Min.Tract Size
Districts	Area (sq. ft.)	Per DU. (sq. ft.)	Width (feet) [1]	Depth (feet)	Road Frontage (feet)	Front	Side [2]	Rear	Water side (feet) Max 3 stories	Cliff side (feet) Max 4 stories	Max FAR or DU'S/ac	OSR	(acres)
Non-residential	21,780	na	100						42	na	0		na
B&I	See Section 109. 8.												

**Notes on Table:**

- (1) Lot width measured at mean high water mark
- (2) Dimension for one side yard, two (2) required.
- (3) Water side properties are southeast and Cliff side properties are northeast of MD222/Main Street in the Historic District.
- (4) Maximum 3 stories on water side properties.
- (5) Maximum 4 stories on cliff side properties

**Definitions:**

Open Space Ratio (OS) - The proportion of a site consisting of open space calculated using the gross site area.

Landscape Ratio (LSR) -The ratio derived by dividing the area of landscaped surface by the gross site area.

Floor Area Ratio (FAR) - An intensity measured as a ratio derived by dividing the total floor area of a building by the gross site area.

DU - Dwelling Unit

## **ARTICLE XIII RECREATIONAL FACILITIES AND OPEN SPACE**

### **Section 227. Neighborhood Parks Required**

In order to implement the Open Space and Recreation objectives for Port Deposit, all residential subdivisions shall provide recreation opportunities according to the following subsections:

1. Subject to Subsection 3., all residential developments in the Town shall provide, at a minimum, recreational areas in the form of neighborhood parks in an amount equal to the standards set forth in Subsection 2. Such recreational areas shall be provided in addition to the open space areas required by Section 226.
2. For purposes of this section, neighborhood park areas shall be 0.005 acres per residential unit and shall not be less than 5,000 square feet.
3. The Town Council may permit payment of a fee in-lieu, dedication, reservation or a combination whenever the requirements in Subsections 1. and 2. cannot adequately meet the open space and recreation responsibilities of the development or if the development is less than 30 homes or within 1,500 feet from another park or playground. The fee in-lieu shall be on a per-dwelling-unit basis as established by the Town of Port Deposit. The fee shall be listed with the annual schedule of fees for the Town and may change from time to time. Fees will be collected upon application for a building permit. The fee shall be deposited only in a designated account with funds expended only for planned park and recreation facilities.
4. In the case of large proposed developments, which are hereafter defined as any developments over 50 dwelling units, the Planning Commission may require a combination of improved park and recreational property and playgrounds, at the minimum rate of 0.015 acre per dwelling unit, and an impact fee in order to meet the planned Town open space and recreation objectives.
5. When park or recreational facilities approved for dedication are completed and accepted, a deed shall be conveyed to the Town of Port Deposit, after which the supervision and maintenance shall be the responsibility of the Town. When park or recreational facilities are reserved, the developer shall establish conditions as to ownership, maintenance, and use of such areas as deemed necessary by the Planning Commission to assure preservation of its intended purposes.

### **Section 228. Neighborhood Parks: Purpose and Standards**

1. The purpose of the neighborhood park is to provide adequate active recreational facilities to serve the residents of the immediately surrounding neighborhood within the development. The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the neighborhood park requirements of this article: tennis courts, racquetball courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides, and play apparatus.



2. Each development shall satisfy its neighborhood park requirement by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than 5 percent of the residents of any development are likely to be children under 12, then at least 15 percent of the neighborhood park must be satisfied by the construction of "tot lots" (i.e., areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for parents).
3. Neighborhood parks shall be attractively landscaped and shall be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences.
4. Each neighborhood park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve.
5. Each neighborhood park shall be constructed on land that is relatively flat, dry , free of nontidal wetlands, and capable of serving the purposes intended by this article.

## **Section 229. Provision of Common Open Space**

The minimum common open space that shall be provided is as specified in Section 226. Open space (spaces designed and intended for the use and enjoyment of all residents of the development) may contain such complimentary structures, improvements as are necessary and appropriate for the use, benefit and enjoyment of residents of the development. Common open space areas shall meet the following requirements:

1. Common open space areas shall:
  - a. be exclusive of tidal wetlands and road rights-of-ways/parking areas;
  - b. equal or exceed remaining percentages of the gross site area (maintenance of areas of productive farmland may serve to meet open space requirements);
  - c. no more than 40 percent of the open space required shall consist of those areas designated as nontidal wetlands.
2. Common open space may serve recreational purposes, preserve significant site features, and preserve open space. The uses authorized shall be appropriate to the purposes intended to be served. Open space designed to serve recreational purposes shall be appropriate to the scale and character of the cluster development, considering its size, density, expected population, and the number and type of dwelling units proposed.
3. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of protection may be left unimproved. The buildings,

structures, and improvements to be permitted in the common open space must be appropriate to the uses which are authorized for the common space.

### **Section 230. Open Space Requirement - Ownership**

1. Private Ownership. If joint use facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission.
2. Open Space. Unless the Planning Commission finds that the size, location, type of development, or cost of development or maintenance of such open space or the availability of public open space would make public use desirable and necessary, open space shall not be made available for the use of all residents of the Town. The Planning Commission generally will require dedication of all areas indicated for acquisition in the adopted County or Town Open Space and Recreation Plan.

### **Section 231. Management of Common Open Space Property**

The developer shall insure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance and preservation of open space which shall conform to the following standards and procedures:

1. The organization shall be established by the developer before sale or rental of dwelling units in the development, and prior to final approval of the development plan by the Planning Commission.
2. The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to insure the successful fulfillment of the maintenance, preservation and improvement responsibilities of the organization.
3. The organization responsible for maintenance, preservation, and improvement of common open space lands, and all property owners within the cluster development shall be permitted to participate in such organization.
4. Areas set aside to meet the open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenant shall be provided to insure the purpose for which the open space is provided will be achieved. Said instruments shall be approved by the Planning Commission, and Public Works Department prior to recordation among the Land Records of Cecil County.

### **Section 232. Bond for Improvements**

Prior to the issuance of a building permit, there shall be delivered by the owner or developer some form of surety acceptable to the Town in an amount as specified by the Town, which shall be submitted with the final subdivision plat, as described in the Port Deposit Subdivision Regulations, which surety shall secure an agreement to construct such required physical improvements as identified in the Proposed Plan of Development.

### **Section 233. Homeowners Associations**

Homeowners associations or similar legal entities that, pursuant to Section 221, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:

1. Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
2. The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
3. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

### **Section 234. Flexibility in Administration Authorized**

1. The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities and open space to be provided in connection with residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit-issuing body is authorized to permit minor deviations from these standards whenever it determines that: (a) the objectives underlying these standards can be met without strict adherence to them; and (b) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.
2. Whenever the permit-issuing board authorizes some deviation from the standards set forth in this article pursuant to Subsection 1., the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

### **Section 235. Reserved**

## **ARTICLE XIV UTILITIES**

### **Section 236. Utility Ownership and Easement Rights**

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

### **Section 237. Underground Utilities**

1. All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this Ordinance shall be placed underground in accordance with the specifications and policies of the respective utility service providers.
2. Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this ordinance, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies.

### **Section 238. Utilities To Be Consistent With Internal and External Development**

1. Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.
2. All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

### **Section 239. Electric Service**

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

1. If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.

2. If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

## **Section 240.        Lighting Requirements**

1. All entrances and exits in substantial buildings used for nonresidential purposes and in two-family or multi-family residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings.
2. Excessive Illumination. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot when it substantially interferes with the use or enjoyment of neighboring properties.

## **Section 241.        Lighting Standards**

1. Purpose. The purpose of this section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source. With respect to motor vehicles in particular, safety considerations are the basis of the regulations contained herein. In other cases, both the nuisance and hazard aspects of glare are regulated. This section is not intended to apply to public street lighting.
2. Site lighting shall be of low-intensity from a concealed source, shall be of a clear white light which does not distort colors and shall not spill over into adjoining properties, buffers, roadways, or in any way interfere with the vision of oncoming motorists.
3. Exemption for specified outdoor recreational uses. Because of their unique requirements for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, and tennis courts are exempted from the exterior lighting standards of Subsection 2. above upon satisfying the Planning Commission during a site plan review that the site plan indicates that these outdoor recreational uses meet all other requirements of this section and of this Ordinance and the following conditions:
  - a. The outdoor recreational uses specified above shall not exceed a maximum permitted post height of 40 feet.
  - b. The outdoor recreational uses specified above may exceed a total cutoff angle of 90 degrees, provided that the luminaire is shielded in either its orientation or by a landscaped bufferyard to prevent light and glare spill-over to adjacent residential property. The maximum permitted illumination at the interior bufferyard line shall not exceed 2 foot-candles.
4. Additional regulations. Notwithstanding any other provision of this section to the contrary:
  - a. No flickering or flashing lights shall be permitted.

- b. Light sources or luminaries shall not be located within bufferyard areas except on pedestrian walkways.
5. Exterior lighting plan. At the time any exterior light is installed or substantially modified, and whenever a zoning certificate is sought, an exterior lighting plan shall be submitted to the Town in order to determine whether the requirements of this section have been met and that adjoining property will not be adversely impacted by the proposed lighting.

## **Section 242. Sites For and Screening of Dumpsters**

1. Every new development constructed from the effective date of this ordinance that is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
  - a. Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way, and
  - b. Constructed according to specifications established by the Town to allow for collection without damage to the development site or the collection vehicle.
2. All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would not be clearly visible to:
  - a. Persons located within any dwelling unit on residential property other than that where the dumpster is located.
  - b. Occupants, customers, or employees located within any building on nonresidential property other than that where the dumpster is located.
  - c. Persons traveling on any public street, sidewalk, or other public way.
3. When dumpster screening is required under this section, such screening shall be constructed, installed, and located to prevent or remedy the conditions requiring the screening.

## **Section 243. Reserved**

## **ARTICLE XV SIGNS**

### **Section 247. Sign Permit Required**

1. No person shall erect a sign or billboard within the Town and no person shall repair, alter, relocate or maintain any existing sign or billboard within the Town unless and until a permit for such sign or billboard has been issued by the Zoning Inspector.
2. No permit required by this Article shall be granted until after an application has been reviewed by the Historic Area Commission. The application must provide specifications of the proposed structure, and its proposed location with respect to property lines, nor until the provisions of this Article relating to such structure have been complied with. Each such application shall be accompanied by the required fee. The Historic Area Commission may prescribe suitable regulations not inconsistent with the provisions of this Article concerning the form and contents of all applications for the various types of permits required.
3. No sign permit may be issued by the Zoning Inspector until a Certification of Appropriateness has been issued by the Historic Area Commission.
4. The Zoning Inspector may revoke any permit issued by him/her pursuant to this Article upon failure of the holder thereof to comply with any of the provisions of this Article.

### **Section 248. Freestanding Signs**

1. All letters, figures, characters or representations in cut-out, irregular form, maintained in conjunction with, attached to or superimposed upon any sign, shall be safely and securely built or attached to the sign structure and shall comply with all the requirements of this Article.
2. No person shall erect any ground sign the total height of which is greater than 40 feet above the level of the street upon which the sign faces, or above the adjoining ground level if such ground level is above the street level.
3. Location.
  - a. No ground sign shall be near than two (2) feet to any other sign, building or structure
  - b. No ground sign shall be nearer the street than the building line established by law or ordinance.
  - c. All ground signs shall conform to the provisions and the requirements of this Article.
4. All ground signs shall be securely built, constructed and erected upon posts and standards designed by standard engineering practices, and shall not be supported and braced by timbers or metal rods.
5. All posts or wood shall be treated to protect them from moisture by creosoting or other approved method when they rest upon or enter into the ground.

6. All ground signs, the premises surrounding such signs, shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.
7. Temporary ground signs advertising the future use or development of property on which such signs are located may be erected, subject to the provisions of this Article; provided, that such signs shall be erected only under the provisions of a temporary, six months renewable permit. No such sign shall exceed thirty (30) feet in length or fifteen (15) feet in height. Such signs shall be removed within thirty (30) days of completion of such development.
8. Renewable permits for ground signs shall be denied by the Zoning Inspector in the event that the sign has not been kept in proper repair or has damaged the public health and welfare by providing a harboring place for rodents or reptiles or a screen for unauthorized dumping grounds refuse. Such signs unfit for a renewal permit shall be ordered removed within thirty days after expiration of the permit, subject to the provisions of this Article for the removal of signs by the Zoning Inspector.
9. Temporary ground directional signs to subdivisions under development are permitted in a residential area; provided, that permission of the owner of the property upon which the sign is erected is obtained, and that there are no objections to such sign by adjoining property owners. Such directional signs shall be no larger than twenty (20) square feet in area. Such signs are subject to the same restrictions as temporary ground signs.

#### **Section 249.       Roof Signs**

Roof signs shall not be permitted.

#### **Section 250.       Wall Signs**

1. No wall sign shall extend beyond the building line more than eighteen (18) inches; except, that if the sign is illuminated the light reflectors may project six (6) feet beyond the building line.
2. No wall sign shall exceed forty (40) square feet in area and shall be safely and adequately attached to such buildings.

#### **Section 251.       Projecting Signs**

1. No projecting sign shall extend above the roof line.
2. Every projecting sign shall be constructed and braced to withstand a horizontal wind pressure of not less than thirty (30) pounds for every square foot of surface exposed, and shall be securely attached to the building wall in an approved manner.
3. No projecting sign shall extend more than four (4) feet six (6) inches from the building line, including attachment irons and the like, unless such sign is less than four (4) feet six (6) inches in height, in which case the maximum projection shall be six (6) feet six (6) inches from the building line. In no case shall a projecting sign extend beyond the curb line.



4. No sign projecting to more than six (6) inches from the building line shall be erected directly above or below a sign projecting six (6) feet, unless there is a space of not less than six (6) feet, separating such signs.
5. No projecting signs shall extend downward nearer than eight (8) feet to the ground or pavement.

**Section 252. Reserved**

**Section 253. Reserved**

**Section 254. Sign Illumination and Illuminated Signs; Flashing Signs Prohibited**

1. Goose neck reflectors and lights shall be permitted on ground signs, roof signs, wall signs, post signs and marquee signs; provided, that the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare on the street or adjacent property.
2. Business signs may be illuminated, but if located in the vicinity of a traffic control signal no red illumination shall be used thereon.
3. All illuminated signs and sign illumination shall be subject to applicable provisions of this Ordinance and of all laws and electrical and building codes which may be in force within the Town of Port Deposit.
4. The application for a permit for the erecting of a sign or other advertising structure in which wiring and connections are to be used shall be submitted by the Zoning Inspector to such official or officials having inspection duties in connection therewith under this Article or an law, electrical code, ordinance or regulation in force in the Town of Port Deposit, and the applicant shall pay any required inspection fee.
5. It shall be unlawful for any person to erect or maintain within the Town any sign the illumination of or for which alternatively flashes on and off or which alternatively increases and decreases in the intensity of illumination.

**Section 255. Off-Site or Off-Premises Signs**

No off-site or off-premises sign, as defined by this Article, shall be erected within the Town except upon property which has been zoned for such purpose.

**Section 256. Rolling Signs**

1. Rolling signs may be employed for a period no longer than thirty (30) days within one calendar year after permit from the Zoning Inspector.
2. The maximum size of a rolling sign may be no greater than four (4) feet by eight (8) feet per side, and the sign may be double-sided.

## **Section 257. Obstruction of Windows, Doors, Fire Escapes, Etc., Prohibited**

No sign of any description shall be installed, erected, constructed or maintained in such a manner as to obstruct any fire escape or any window or door, nor shall any sign be attached in any manner to any fire escape.

## **Section 258. Obstruction of Traffic and Traffic Signs Prohibited**

1. No sign or advertising shall be erected at or near the intersection of any streets in such a manner as to obstruct free and clear vision; or any location where by reason of its position, shape, or color it may interfere with or obstruct the view of, or be confused with, any authorized traffic sign, signal or device.
2. No sign shall make use of the words "stop", "look", "danger", or any other word or phrase of similar character in such a manner as to interfere with, mislead or confuse traffic.
3. No beacon ray or similar type of lighting device shall be permitted.

## **Section 259. Display of Obscene, Etc., Matter Prohibited**

No person shall display upon any sign or other advertising structure any obscene, indecent or immoral matter.

## **Section 260. Miscellaneous Requirements**

1. No permit shall be issued for any sign except as prescribed in this Article.
2. No sign shall be maintained in such state of disrepair so as to be unsightly by reason of paint or by partial destruction or dilapidated condition thereof.
3. Signs which contain or consist of banners, posters, pennants, ribbons, streamers, and strings of light bulbs, are prohibited, except as permitted in Section 266.
4. Temporary Signs - Portable signs with maximum area of six (6) square feet are permitted with the issuance of a permit by the Zoning Inspector. Each business may be issued one permit per calendar year good for thirty (30) consecutive days.

## **Section 261. Existing Signs**

1. All signs which have been lawfully erected and maintained prior to the effective date of this Ordinance shall be deemed as legal and lawful signs under the provisions of this Article; provided that the Zoning Inspector does not find any such sign to be in a state of disrepair or to constitute a safety hazard.
2. No existing ground sign, roof sign, wall sign, projecting sign, post sign or marquee sign shall be enlarged, rebuilt, structurally altered or relocated except in accordance with the provisions of this Ordinance, and not until a permit therefore has been issued by the Zoning Inspector.

3. The issuance of a permit shall not relieve the owner or leaser of the premises from the duty of maintaining safely any of such structures.

## **Section 262. Enforcement**

1. The Zoning Inspector shall cause to be taken down all signs which are unsafe, insecure, or a menace to the public, or which have been constructed or erected or are being maintained in violation of the provisions of this chapter or are not registered with the Zoning Inspector after first having given ten (10) days notice in writing to the owner of or person maintaining such sign by personally serving him with notice or by leaving such notice at the place of business in connection with which the sign is displayed, with some person found therein.
2. In case such sign is maintained by a person engaged in the business of erecting and maintaining signs such notice may be served by addressing and mailing such notice to the last known address of such person.
3. No person shall maintain or display on or in connection with any premises owned, occupied or used by him any sign in violation of this Article.
4. Any sign installed, erected or maintained in violation of the terms of this Article shall be an unlawful sign. The Zoning Inspector shall take down all signs which are unlawful by first giving ten (10) days written notice to the owner or person maintaining the signs. Such notice may be served by addressing the place of business in connection with which such sign is used or displayed or by addressing a letter to the owner or person maintaining such sign and mailing the same to his last known address.
5. The Zoning Inspector shall remove any sign of immediate danger or hazard to persons or property, without notice. No person shall maintain or permit to remain upon any premises owned, leased or occupied or used by him, with notice thereof, any unsafe sign or insecure sign liable to injure any person or property.
6. Any property owner within the corporate limits of the Town of Port Deposit where a business has ceased or is terminated shall be responsible for the removal of all signs, posts, and standards and the building and grounds shall be restored to their original condition within 30 days after notification by the Zoning Inspector of the Town of Port Deposit.
7. All expenses incurred by the Zoning Inspector in taking down or removing any sign under this Article shall be charged to the person responsible for such sign and shall constitute a lien on the property upon which such sign was installed as well, which shall be enforceable as a lien for taxes.

## **Section 264. Permitted Signs**

1. Signs permitted in the Residential Zones R-1, RM, and R-2 shall be limited to the following:
  - a. One name plate not exceeding two (2) square feet in area which indicates the name of the occupant.

- b. One unlighted real estate signs not exceeding four (4) square feet in area.
  - c. One unlighted sign not exceeding two (2) square feet in area which identifies a permitted non-residential use.
  - d. One on-site indirectly illuminated sign not to exceed thirty (30) square feet in area shall be permitted in conjunction with a building of a public or semi-public nature. The maximum height of the sign shall be six (6) feet.
  - e. One sign, not exceeding fifteen (15) square feet in area is permitted in conjunction with an approved special exception use except where signage is provided for in other sections of this ordinance.
  - f. Banners and pennants are prohibited except as provided for in Section 265 Special Event Signs.
2. Sign permitted in the R-1, RM, and R-2 Districts are also permitted in the TR, CBD and C-1 districts. The following on-site signs are also permitted:
- a. Unlighted real estate sign not to exceed fifteen (15) square feet in area.
  - b. One indirectly lit freestanding sign not exceeding nine (9) square feet in area or one directly lit projecting sign extending not more than seventy two (72) inches from the front of the building. Signs may not be larger than nine (9) square feet in area and must be at least seven (7) feet from the ground. The sign shall advertise only the business conducted in the building to which it is attached. Corner lots having a minimum of one hundred (100) feet of street frontage may install one indirectly lit freestanding sign not exceeding twenty-four (24) square feet in area in lieu of preceding signage. Additionally, freestanding sign must be set back ten (10) feet from the property line.
  - c. One indirectly lit flat sign, not projecting more than nine (9) inches from the side of a building. The sign area is not to exceed one (1) foot of area per linear foot of street frontage or sixty (60) square feet, whichever is less.
  - d. No plastic signs are allowed unless they are being used under the provisions of Section 265 as a banner or pennant. The Zoning Inspector may consider alternative materials if recommended by the Historic Area Commission.
  - e. In addition to the freestanding sign permitted in b. above, one sandwich board or pedestal sign provided:
    - (1) Only one sandwich board or pedestal sign shall be allowed for any single building; provided, however, that where more than one (1) business occupies a building, each business may have a sandwich board or pedestal sign;
    - (2) Notwithstanding (e)(1), a minimum separation of twenty (20) feet shall be maintained between sandwich boards or pedestal signs;
    - (3) Sandwich boards or pedestal signs on public or private property shall not exceed twenty-four (24) inches in width and thirty-six (36) inches in height; provided,

however, that a minimum unobstructed sidewalk width of forty-two (42) inches shall be maintained;

(4) No sign shall be placed in a manner which obstructs the vision clearance at a street intersection; and

(5) Sandwich boards or pedestal signs located within a public right-of-way shall be placed within that portion of the public right-of-way which abuts the building containing the business or use, provided an encroachment permit has been secured from the Zoning Inspector.

f. A-Frame Signs. A-frame signs are permitted for retail businesses that 1) primarily sell perishable goods; or 2) are not visible from a public street and have no options available to provide signage visible from a public street. A-frame signs shall meet the following requirements;

(1) Each business shall not have more than one (1) A-frame sign;

(2) A-frame signs shall be placed on private property and shall be located on the same parcel as the business which qualifies for said sign;

(3) A-frame signs shall be removed during non-business hours; and

(4) The area of an A-frame sign shall not exceed ten (10) square feet.

g. An awning sign may be permitted by the Zoning Inspector under the following conditions:

(1) No sign shall project from an awning.

(2) Awning graphics may be painted or affixed flat to the surface of the front or sides, shall indicate only the name and/or address of the enterprise or premises.

(3) Awning graphics shall be a single line of lettering not exceeding six (6) inches in height, but if over three (3) inches in height, shall be debited against the permitted wall sign surface area.

(4) No awning sign shall be internally illuminated.

h. Projecting Signs

(1) A wall-mounted sign perpendicular to the building surface.

(3) If flat, each face shall not exceed ten (10) sq. ft.

(4) The total area of a three dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine (9) sq. ft.

(5) Such sign shall be hung at right angles to the building and shall not project closer than two (2) feet to the curb line.

- (6) The supporting framework shall be in proportion to the size of such sign.
  - (7) The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the Zoning Inspector:
    - (i) suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or,
    - (ii) the lowest point of the roof of a one story building.
  - (8) Projecting signs shall have a minimum clearance of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least thirteen (13) feet.
3. In the B&I Zone on-site signs are permitted pertaining to the businesses conducted on the property, in conformance with a Master Signage Plan approved by the Planning Commission.
- a. The Master Signage Plan shall contain the following:
    - (1) An accurate plot plan of the property or properties included, at such scale as the Planning Commission may require;
    - (2) Location of buildings, parking lots, driveways, and landscaped areas on such properties;
    - (3) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs proposed; and
    - (4) An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
    - (5) The Master Signage Plan shall specify standards for consistency among all signs on properties affected by the Plan with regard to:
      - i. Color scheme;
      - ii. Lettering or graphic style;
      - iii. Lighting;
      - iv. Location of each sign on the buildings;
      - v. Materials; and
      - vi. Sign proportions.
  - b. A Master Signage Plan including window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window sign (e.g. Paper affixed to window, painted, etched on glass, or some other material hung inside window) and need not specify the exact dimension or nature of every window sign.
  - c. The Master Signage Plan for all properties with multiple uses or users, shall limit the number of freestanding signs to a total of one (1) for each street on which the properties included in the plan have frontage and shall provide for shared or common usage of such signs.

- d. The Master Signage Plan shall be included in any development plan, site plan, or other plan required by the Town for the proposed use or development and shall be processed simultaneously with such other plan.
  - e. The Master Signage Plan may be amended by filing a new Master Signage Plan that conforms with all requirements of the ordinance then in effect.
  - f. If any new or amended Master Signage Plan is filed for a property on which existing signs are located, it shall include the existing signs and those signs are subject to the requirements of this ordinance and review by the Planning Commission as part of the Master Signage Plan.
  - g. After approval of the Master Signage Plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plans, and such plan may be enforced in the same way as any provision of this ordinance.
4. In the B&I Zone off-site signs may be permitted as a Special Exception by the Board of Appeals provided:
- a. The off-site sign is approved by the Planning Commission as part of a Master Signage Plan;
  - b. The sign is not nearer than one hundred (100') feet to any residentially zoned property;
  - c. The sign is not closer than twenty-five (25') feet to any property line;
  - d. The sign is not illuminated;
  - e. The sign does not arise above the roof level of any buildings surrounding it; and
  - f. The sign is does not exceed one hundred (100) square feet in total size, which size shall include both the front and back of the message areas.

## **Section 265. Prohibited Signs**

- 1. Signs containing graffiti or obscenity.
- 2. Sign messages painted directly onto the surface of a building or structure other than a sign.

## **Section 266. Banners, Pennants and Special Event Signs**

- 1. Special Event Signs
  - a. A carnival, fair, circus, festival or similar event as determined by the Zoning Inspector may locate banners, flags and pennants provided:

- (1) A permit is obtained containing the date of the event.
  - (2) These signs may be displayed no more than one week prior to the event and must be removed no more than three (3) days after the event, except non-profit organizations may display these signs no more than four weeks prior to the event and must remove them no more than three (3) days after the event.
  - (3) These signs must be located on-site.
  - (4) The event occurs no more than once a year.
  - (5) All banners, flags and pennants encroaching in the State Highway Right of Way may require additional approval from the State Highway Administration.
- b. A carnival, fair, circus, festival or similar event, as determined by the Zoning Inspector may display off-premise signs provided:
- (1) Written permission is obtained from the property where the sign is to be located and is provided to the Zoning Inspector.
  - (2) A permit is obtained stating location, wording and date of event. Sign information must be limited to event name, date, location and sponsor.
  - (3) No more than four (4) signs per event may be erected.
  - (4) Signs may not exceed thirty-two (32) square feet in area per sign.
  - (5) They may be erected no more than four (4) weeks prior to the event and must be removed no more than five (5) days after the event.
2. Grand Opening Signs
- a. A grand opening or grand re-opening is permitted to use banners, pennants or flags provided:
- (1) They are not displayed more than three (3) days prior to the event and are removed within three (3) days after the event.
  - (2) A permit must be obtained which would include number, and type of all banners as well as the date of the event.
- b. A grand opening or grand re-opening is permitted to display two (2) off-premise signs provided:
- (1) Written permission is obtained from the owner of the property where the sign is to be located and is provided to the Zoning Inspector.
  - (2) A permit must be obtained stating locations, date of event and wording on sign.
  - (3) Signs may only indicate grand-opening or re-opening, name of business, merchandise available, date of event, location of business and owner's name. These signs shall not include prices.



(4) Signs are not displayed more than two (2) weeks prior to the event and must be removed no more than 1 week after the week.

(5) Signs shall not exceed thirty-two (32) square feet in area.

3. Special Sales Signs

a. Banners may be used to advertise a sale provided:

(1) Not more than two (2) banners may be displayed on any lot at any one time.

(2) It does not exceed twenty-four (24) sq. ft. in size.

(3) They are displayed no more than two (2) weeks at a time and six (6) times in any one year period.

(4) A permit shall be required stating size of banners, date to be displayed, business name and number of banners displayed.

4. Help Wanted Signs

a. Banners may be used to advertise help wanted provided:

(1) State only "Help Wanted".

(2) Must be located on-site.

5. Additional Regulations for all Banners, Pennants and Flags

a. Banners and pennants may be indirectly lit during hours of operation only.

b. No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

c. No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

d. All signs should be securely attached to the support structure to prevent sagging or dropping of the pennants, banners or flags. Banners should be secured as per the definition.

e. Such signs shall not be used in the calculation of permitted sign area for each use.

**Section 267. Reserved**

**Section 268. Reserved**

**Section 269. Reserved**

## **ARTICLE XVI PARKING**

### ***Part I Parking***

#### **Section 270. Definitions**

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.

**Circulation Area.** That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles and parking spaces) comprise the circulation area.

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

**Gross Floor Area (GFA).** The total area of a building measured by taking the outside dimensions of the building at each floor level intended occupancy or storage.

**Loading and Unloading Area.** That portion of the vehicle accommodation area used to satisfy the requirements of Section 280.

**Vehicle Accommodation Area.** That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

**Parking Area Aisles.** That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**Parking Space.** A portion of the vehicle accommodation area set for the parking of one vehicle.

#### **Section 271. Number of Parking Spaces Required**

1. Site plans shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
2. The presumptions established by this article are that: (a) a site plan must comply with the parking standards set forth in Subsection 271.4. to satisfy the requirement stated in Subsection 1., and (b) any site plan that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in Section 272.
3. The Town recognizes that the Table of Parking Requirements set forth in Subsection 271.4 cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Planning Commission is authorized to determine the parking requirements using this table as a guide.

#### 4. Table of Minimum Parking Requirements

USE	OFF-STREET PARKING REQUIREMENT
Residential	1.0 space per unit
Miscellaneous Rooms for Rent	1.0 spaces per unit
Commercial Service	2.0 spaces per 1000 square feet of net leasable space
Commercial Retail and Wholesale	3.0 spaces per 1000 square feet of net leasable space
Public and Semi-Public Facilities	To be determined by the Planning Commission as per Section 271 Number 3.
Other	To be determined by the Planning Commission as per Section 271 Number 3.
The number of dwelling units on each Lot is limited by the requirement of 1.0 parking places for each dwelling, a ratio which may be reduced according to the shared parking standards in no. 5 of this Section.	

5. Joint use of required parking spaces is encouraged and may be reduced in accordance with the shared parking standards. Table of Shared Parking Factor:

#### SHARED PARKING FACTOR

Function	with		Function
RESIDENTIAL			RESIDENTIAL
LODGING			LODGING
OFFICE		1	OFFICE
RETAIL	1.4	1.1	RETAIL
	1.2	1.7	
	1.3	1	
	1.2	1.2	
	1		

**Section 272. Reserved**

**Section 273. Parking Space Dimensions**

- Subject to Subsections 2. and 3., each angled parking space shall contain a rectangular area at least 18 feet long and 9 feet wide. Lines demarcating angled parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

2. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 23 feet by 6.5 feet on arterial roads and 8 feet on collector and/or neighborhood collector streets.
3. Each handicapped parking space shall meet the requirements of the American Disabilities Act.

## **Section 274. Required Widths of Parking area Aisles and Driveways**

1. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Aisle Width	Parking Angle				
	0°	30°	45°	60°	90°
One-Way Traffic	15	15	16	18	24
Two-Way Traffic	22	22	22	23	24

2. Driveways shall be not less than 10 feet or exceed 15 feet in width for one-way traffic and less than 18 feet or exceed 30 feet in width for two-way traffic, except that 10-foot-wide driveways are permissible for two-way traffic when (a) the driveway is not longer than 50 feet, (b) it provides access to not more than 6 spaces, and (c) sufficient turning space is provided so that vehicles need not back into a public street.

## **Section 275. General Design Requirements for Parking Areas**

1. Unless no other practicable alternative is available vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.
2. Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
3. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.
4. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
5. Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way.

6. A "sight triangle" shall be observed within a triangle formed by the intersection of the street lines and points on the street line 25 feet from the intersection at all street intersection or intersections of driveways with streets.
7. Special access, surface, and location requirements for garages and automobile service stations:
  - a. No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within 15 feet of any right-of-way or within 50 feet of an adjacent residential zone, except where such a pump, pit, or appliance is within a completely enclosed building and distant at least 15 feet from any vehicular entrance or exit of such building. Except for gasoline service stations, no gasoline pumps shall be permitted as an accessory use for another activity unless a site plan is submitted to and approved by the Planning Commission.

## **Section 276.        Vehicle Accommodation Area Surfaces**

1. Vehicle accommodation areas that (a) include lanes for drive-in windows or (b) contain parking areas that are required to have more than 10 parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust as per applicable Town specifications.
2. Vehicle accommodation areas that are not provided with the type of surface specified in Subsection 1. shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets shall be paved.
3. Parking spaces in areas surfaced in accordance with Subsection 1. shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection 2. shall be demarcated whenever practicable.
4. Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, weeds, overgrowth, trash, clutter, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

## **Section 277.        Joint Use of Required Parking Spaces**

Shared use of required parking spaces is encouraged as per Section 271 of this Article.

## **Section 278.        Reserved**

## **Section 279.        Parking for the Historic District**

1. On-site parking within the Historic District is not practicable on existing lots of record with existing structures. To discourage the conversion of existing structures in the Historic District to surface parking lots, the use of municipal lots and shared parking in private lots is encouraged.
2. The parking regulations as per the Town Code shall be enforced.

## **Section 280. Loading and Unloading Areas**

1. Subject to Subsection 5., whenever a site plan requires that goods, merchandise, or equipment be routinely delivered to or shipped from a proposed location, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery and shipment operations in a safe and convenient manner.
2. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the proposed location in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in the subsection. However, the Planning Commission may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

<b>Gross Leasable Area of Building</b>	<b>Number of Spaces*</b>
1,000- 19,000	1
20,000- 79,999	2
80,000-127,999	3
128,000-191,000	4
192,000-255,999	5
256,000-319,999	6
320,000-391,999	7

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

\*Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

3. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can:
  - a. maneuver safely and conveniently to and from a public right-of-way, and
  - b. complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
4. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking be used to satisfy the area requirements for loading and unloading facilities.

5. Whenever there is a lot with one or more structures on it located within the Historic District where:
  - a. a change in use that does not involve any enlargement of a structure is proposed for such lot, and
  - b. the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading.

then the property owner/business owner need only comply with this section to the extent reasonably possible.
6. No such space shall be located closer than 50 feet to any other lot in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than 6 feet in height.
7. The Planning Commission may modify any requirement of this section where it determines that compliance would conflict with the ingress and egress requirements and standards of the State Highway Administration along a State highway.

## **Section 281.        Parking facilities for the Physically Handicapped**

1. Location. Parking spaces for the physically handicapped shall be located as close as possible to ramps, walkways, entrances, and elevators. Where feasible, these parking spaces shall be located so that the physically handicapped are not forced to wheel or walk across main traffic lanes or behind parked cars to reach the ramps, and other facilities. The spaces shall be situated in those areas of the parking lots located nearest to each primary building entrance.
2. Each handicapped parking space shall comply with current American Disabilities Act standards.
3. Required Number of Spaces. The following number of parking spaces shall be reserved for the physically handicapped:

<u>Total Parking Spaces in Lot</u>	<u>Required Minimum Number</u>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 % of Total
Over 1,000	20, plus 1 for each 100 over 1,000

4. Identification. Parking spaces for the physically handicapped shall be identified by signs, generally located 8 feet above grade. The signs shall state that the space is reserved by law for the physically handicapped. Where these signs are placed flush against buildings or structures, or in other locations not accessible to vehicular or pedestrian traffic, the height may be reduced to 6 feet.
5. Curbs.
  - a. Where a curb exists between a parking lot and a sidewalk, a horizontally scored ramp or curb cut shall be provided for wheelchair access.
  - b. The curb cut shall not be less than 4 feet wide and shall have a grade of not more than one foot in 12 feet.
  - c. Curb cuts shall be provided within 30 feet of each accessible entrance to the structure, at all pedestrian walk intersections, and elsewhere to provide reasonably direct circulation within each development.
  - d. The curb cuts shall not be more than 150 feet apart.
6. Sidewalks.
  - a. Sidewalks shall be scored or textured to indicate the location of doors to blind persons.
  - b. Exterior sidewalks shall not be obstructed.
  - c. Exterior sidewalks shall have a side slope not greater than one inch in 4 feet. They shall be at least 4 feet wide and have a grade of not more than one foot in 20 feet.
  - d. Wherever sidewalks cross driveways, parking lots, or other sidewalks, they shall blend to a common level.
7. Storm Drains. Storm drain grates and similar devices shall not be located within the required access for the physically handicapped.
8. Grade. The grade of parking spaces for the physically handicapped shall not be more than one foot in 20 feet.

## ***Part II Landscaping of Parking Facilities***

### **Section 282. Intent**

It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of large expanses of parking areas. Breaking up of paved parking areas with plantings will provide improved aesthetics and micro-climatic benefits by reducing heat and glare.

### **Section 283. Sites Affected**



1. New sites. No new parking areas shall hereafter be constructed or used unless landscaping is provided as required by the provision of this Article.
2. Existing sites. No parking areas shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property. Any such improvements shall be subject to review by the Historic District Commission.
3. Change of use. No use shall be changed to another use for which the Zoning Ordinance requires additional parking over and above that required for the previous use, unless vehicular use area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.
4. Change of zone. No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

## **Section 284. Perimeter Landscaping**

1. Property line landscape buffers between adjacent land uses shall be provided in accordance to the requirements spelled out in the landscape and land use buffer article of this ordinance.
2. Any parking lot that is adjacent to a road or public right-of-way shall provide a landscaping area width based upon the following right-of-way width:
  - a. 60 feet wide or less: 10 foot minimum landscape area width
  - b. More than 60 feet wide: 15 foot minimum landscape area width.
3. The Planning Commission may allow deviations from this requirement when it finds that the site in question exhibits irregular, confining, or otherwise unusual characteristics. In no case shall the required landscape area width be less than 5 feet.
4. Where the pavement width of the parking lot exceeds 60 feet, the landscape area adjacent to a road or public right-of-way shall be increased by 5 feet for every additional 60 feet of parking lot width perpendicular to the right-of-way as indicated in the following table:

<u>Parking Lot Width</u>	<u>Required Landscape Area Width</u>
1-60 ft.	15 ft.
61-120 ft.	20 ft.

121-180 ft.	25 ft.
181-240 ft.	30 ft.
241-300 ft.	35 ft.
301-360 ft.	40 ft.
361-420 ft.	45 ft.

5. Each landscape area adjacent to a street right-of-way shall contain a minimum of one tree per 40 feet of landscape area parallel to the right-of-way. In addition, a vegetative screen, landscaped berm, fence, wall, or other methods to reduce the visual impact of the parking area shall be provided. The vegetative screen shall have an average continuous height of 3 feet. A 3 foot decrease in elevation from the adjoining property to the street right-of-way shall be construed as satisfying the vegetative screen requirement.
6. Grass or ground cover shall be planted on all portions of the landscape area not occupied by other landscape material.
7. Special notes on existing natural vegetation:
  - a. In all cases where significant natural vegetation exists, as determined by the Zoning Inspector, there will be limits of clearing/grading areas established to protect and preserve these natural area. These natural areas will not be disturbed by the installation of any structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, signage. Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown in the required plan.
  - b. In the case where buffers are created by the application of these standards, no structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, stormwater management systems, and signage will be permitted.
  - c. Where pedestrian and bike paths are proposed in the landscape area, such paths shall be meandering in order to preserve the existing trees.
8. Trees required as a part of the parking lot street right-of-way landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Planning Commission. Such trees shall be in addition to any street trees required by the subdivision regulations.
9. Landscaping in Easements. The required landscape area for parking areas may be combined with a utility or other easement only if all landscape requirements can be met. Otherwise, the landscape area shall be in addition to, and separate from, any easement.
10. In any parking lot perimeter landscaping area all trees shall be set back at least 4 feet from the edge of paving where vehicles overhang.

## **Section 285. Interior Landscaping for Parking Lots**

1. For any parking lot containing more than 6,000 square feet of area or 15 or more spaces, interior landscaping shall be provided in addition to the previously required perimeter

landscaping. Interior landscaping shall be contained in peninsulas or islands. An interior parking lot landscape island or peninsula is defined as a landscaped area containing a minimum area of 153 square feet having a minimum width of 8.5 feet and a minimum length of 18 feet. There shall be a minimum of 4 feet to all trees from the edge of paving where vehicles overhang. The minimum landscape area permitted shall be 10 percent of the parking area. Each island or peninsula shall be enclosed by appropriate curbing or a similar device at least 6 inches wide and 6 inches in height above the paving surface. For purposes of Subsection 4. below and subject to the limits established in 5. below, up to 4 islands can be combined.

2. Where a parking area is altered or expanded to increase the size to 6,000 or more square feet of area or 15 or more vehicular parking spaces, interior landscaping for the entire parking area shall be provided and not merely to the extent of its alteration or expansion.
3. Landscape area. For each 100 square feet, or fraction thereof, of vehicular use area, 5 square feet of landscaped area shall be provided. The interior landscaping requirement shall be computed on the basis of the "net parking facility." For the purposes of this Section, "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.
4. Landscape islands or peninsulas - number required:
  - a. For less than 100 spaces one island or peninsula is required for every 7 parking spaces.
  - b. For 100 spaces or more, one island or peninsula is required for every 10 spaces.
  - c. Each 10 parking spaces shall require an interior planting island.
  - d. All interior parking aisles shall end in a landscape island.
5. Maximum contiguous areas for interior parking lot landscaping. In order to encourage the required landscape areas to be properly dispensed, no required landscape area shall be larger than the following:
  - a. 350 square feet in parking areas under 30,000 square feet.
  - b. 1,500 square feet in parking areas over 30,000 square feet.
6. Landscape areas larger than the above are permitted as long as the additional area is in excess of the required minimum, except that landscape areas larger than the maximum permitted may be allowed as required landscaping areas in those cases where significant natural vegetation exists.
7. Minimum plant materials. A minimum of one tree for each 250 square feet or fraction thereof of required landscape or for each 5 spaces of required parking or for each 161 square feet of island or peninsula, whichever is greater, shall be required. The remaining area of the required landscaped area shall be landscaped with shrubs or ground cover not to exceed 2 feet in height, or grass.

8. Landscaping for service structures. All service structures shall be fully screened, except when located in a single-family, agriculture, or industrial zone or when located more than 35 feet above the established grade. Service structures in an industrial zone shall be fully screened when located within 100 feet of any zone other than industrial. For the purposes of this article, service structures shall include propane tanks, dumpsters, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.
  - a. Location of screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure or loading zone on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed 8 feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.
  - b. Protection of screening material. Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least 18 inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be 12 feet to allow service vehicles access to the container.
9. Interior landscaping for parking areas shall be installed and continuously maintained by the owner according to the requirements contained in Article XVII Part I and II.
10. Landscape material type and quality shall be described in detail in the Article XVII Part II of this ordinance.
11. Plan submission and approval. Whenever any property is affected by these parking area landscape requirements, the property owner or developer shall prepare a landscape plan for approval according to the requirements contained in the Article XVII, Part II of this ordinance.
12. Unnecessary paving or irregular paving plans are strongly discouraged and, if incorporated in a site plan, shall be subject to approval by the Zoning Inspector.
13. Alternative parking area landscaping design may be considered by the permitting officials in cases where unique topography and site constraints dictate such alternative. The innovative use of planting design and materials is encouraged and will be evaluated on the intent demonstrated to fulfill the stated objectives of this ordinance.

**Section 286. Reserved**

**Section 287. Reserved**

# **ARTICLE XVII SCREENING, SHADING, FOREST CONSERVATION and ENVIRONMENTAL STANDARDS**

## ***Part I. Buffers***

### **Section 288. Purpose**

1. One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Bufferyards will operate to minimize the negative impact of any future use on neighboring uses.
2. The bufferyard is a combination of setback and a visual buffer or barrier and is a yard or area together with the planting required thereon. Both the amount of land and the type and amount of planting specified for each bufferyard requirement of this Ordinance are specified and are designed to ameliorate nuisances between adjacent zoning districts to ensure a desired character along public streets and roads. The planting units required of bufferyards have been calculated to ensure that they do, in fact, function as "buffers."
3. Bufferyards shall be required to separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions. Mature woodlands are considered the best buffers and should be used whenever possible.

### **Section 289. Location of Bufferyards**

Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. Bufferyards shall not be located within a yard required in a single family attached (townhouse) development or planned unit development.

### **Section 290. Determination of Required Bufferyard**

To determine the type of bufferyard required on a parcel or between two parcels or between a parcel and a street, the following procedure shall be used:

1. Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.
2. Determine whether the land on the adjoining property is vacant or developed or whether a plat of the subdivision has been approved.
3. Classify any street adjacent to the proposed use as a local, collector, or arterial street.
4. Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Bufferyards.

5. Determine if the proposed development is a use which has bufferyards required to separate that use from certain uses. Then determine the bufferyard required between such uses by referring to the Tables of Required Bufferyards.

## **Section 291. Responsibility for Bufferyards**

1. When a proposed use adjoins a vacant parcel for which a bufferyard is required by the presence of a zoning boundary, that use shall at the time of development provide one-half of the buffer which is required by the Tables of Required Bufferyards.
2. The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total bufferyard required between those 2 uses. If the adjoining use had developed without a bufferyard, the second use will be responsible for installing the total bufferyard.
3. Existing plant material and/or land located on the preexisting (first developed) land use which meets the requirements of this Ordinance may be counted as contributing to the total bufferyard required between it and the second (adjacent) land use to develop.

## **Section 292. Tables of Required Bufferyards**

<b>REQUIRED BUFFERYARDS BETWEEN ADJACENT ZONING DISTRICTS</b>								
<b>ZONE</b>	<b>R-1</b>	<b>RM</b>	<b>R-2</b>	<b>TR</b>	<b>CDB</b>	<b>C-1</b>	<b>MC</b>	<b>B&amp;I</b>
<b>R-1</b>	--	--	B	--	B		C	E
<b>RM</b>	--	--	C	--	B		C	E
<b>R-2</b>	B	C	--	B	B		C	E
<b>TR</b>	B	B	B	--	--		C	D
<b>CDB</b>	B	B	B	--	--		C	D
<b>C-1</b>	D	D	D	--	C	--	B	C
<b>MC</b>			--	--			--	

<b>REQUIRED STREET BUFFERS</b>	<b>FUNCTIONAL CLASSIFICATION</b>		
<b>ZONING DISTRICTS</b>	<b>ARTERIAL</b>	<b>COLLECTOR</b>	<b>LOCAL</b>
<b>New Residential</b>	D	C	B
<b>Residential, built areas</b>	na	na	na
<b>New Commercial (C-1)</b>	C	C	C

## **Section 293. Bufferyard Requirements**

Illustrations graphically indicating the specification of each bufferyard are contained in Appendix B.

## **Section 294. Bufferyard Use**

A bufferyard may be used for passive recreation or stormwater management. It may contain pedestrian, bike, or equestrian trails provided that: (a) no plant material is eliminated, (b) the total width of the bufferyard is maintained, and (c) all other regulations of the Ordinance are met. (d) In no event, however, shall swimming pools, tennis courts or other such uses be permitted in bufferyards. The Planning Commission may allow substitution or reduction of the bufferyard if it finds that the required bufferyard will obstruct the view of a driver or that the bufferyard is incompatible with the existing streetscape.

## **Section 295. Ownership of Bufferyards**

Bufferyards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Port Deposit, or a homeowner's association, provided that any such conveyance adequately guarantees the protection of the bufferyards for the purposes of this Ordinance. Final Ownership shall be specified and approved by the Planning Commission.

## **Section 296. Bufferyards Which Exceed Minimum Requirements**

Where the bufferyard required between a land use and vacant land turns out to be greater than that bufferyard which is required between the first use and the subsequently developed use, the following options apply:

1. The subsequent use may provide one half of the buffer required by this Section. The existing use may expand its use into the original buffer area, provided that the resulting total bufferyard between the two uses meets the bufferyard requirements of this Section.
2. The existing use may enter into agreements with abutting landowners to use its existing buffer to provide some or all of the required bufferyard of both land uses. The total buffer shall equal the requirements of this Section. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required bufferyard and/or extra land on which it might develop. The existing use may reduce its excess buffer by transferring part or all of the excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.

## **Section 297. Contractual Reduction of Bufferyards**

When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that: the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class; and an agreement by that vacant landowner to assume all responsibility for additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.



## ***Part II Shading***

### **Section 298. Town Findings and Declaration of Policy: Shade Trees**

1. The Town finds that:
  - a. Trees are proven producers of oxygen, a necessary element for human survival,
  - b. Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe,
  - c. Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems,
  - d. Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers,
  - e. Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control,
  - f. Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas, and
  - g. For the reasons indicated herein, trees have an important impact on the desirability of land and therefore on property values.
2. Based upon the findings set forth in Subsection 1., the Town declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

### **Section 299. Required Trees Along Dedicated Streets**

Along both sides of all newly created streets that are constructed in accordance with the Port Deposit street standards, the developer shall at a minimum either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 50 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix B.

### **Section 300. Retention and Protection of Large Trees**

1. Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.

2. No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 12 ½ feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
3. The retention or protection of trees 18 inches in diameter or more as provided in Subsections 1. and 2. unreasonably burdens a developer if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.
4. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections 1. or 2., and, as a result, the parking requirements set forth in Article XVI cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of Subsections 1. and 2., up to a maximum of 15 percent of the required spaces.

### **Section 301.        Shade Trees in Parking Areas**

1. Vehicle accommodation areas that are required to be paved must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix B.
2. Each tree of the type described in Subsection 1. shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20 percent of the vehicle accommodation area will be shaded.
3. No paving may be placed within 12 ½ feet (measured from the center of the trunk) of any tree retained to comply with Subsection 1., and new trees planted to comply with Subsection 1. shall be located so that they are surrounded by at least 200 square feet of unpaved area.
4. Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.

## ***Part III Forest Conservation***

### **Section 302.        Purpose**

The Town of Port Deposit has determined that to meet the requirements of Natural Resources Article, Section 5-1601-5-1612, Annotated Code of Maryland, the provisions of this Ordinance must be enacted. The Town of Port Deposit has assigned all obligations under the Forest Conservation Act to Cecil County Government, including, but not limited to, its administration,



4. Non-tidal Wetland buffer. A twenty-five (25) foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated nontidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.
5. Steep Slopes.

The following steep slope provisions shall apply to all development activities located outside of the Critical Area and to all development activities located in an Intensely Developed Area (IDA) within the Port Deposit Critical Area. Where development activity is located within a Limited Development Area (LDA) or Resource Conservation Area (RCA) the provisions of the Critical Area Overlay district shall apply.

- a. Grading, removal of vegetative cover and trees, and paving are not permitted on any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet unless the Planning Commission determines based on a detailed justification provided by the developer that:
  - (1) it is necessary for construction of public or private roads, driveways, utilities, trails, pathways, or storm water management facilities which are essential for reasonable development of the property;
  - (2) the design minimizes disturbance; and
  - (3) there is no other reasonable alternative.
  - (4) The cost of an alternative improvement shall not be a factor in deciding whether the criteria in subject (1) above can be met.
- b. Reasonable development, for the purpose of this section, does not guarantee maximum possible development under the Port Deposit Zoning Ordinance. In any zoning district, achieving the maximum possible density is not sufficient justification alone to allow disturbance.
- c. If permitted, the grading, removal of vegetative cover and trees, or construction shall only be to the extent required to accommodate the necessary improvements. In these cases, the Planning Commission may require the least damaging designs, as well as planting of the areas where grading or removal of vegetative cover has taken place. A plan showing the placement and species of plantings and/or the method of slope stabilization shall accompany any final site plan or subdivision plat as appropriate.
- d. Not more than forty (40%) percent of any land in excess of fifteen percent slope and less than twenty-five percent slope for an area of forty thousand (40,000) square feet shall be cleared of natural ground cover or vegetation in preparation for development unless the Planning Commission is able to make the findings specified in a.(1) through (4) above.

- e. Whenever development is proposed on land in excess of fifteen percent slope, the Planning Commission may require that the proposed development be certified by a registered professional engineer. If a geotechnical problem is suspected, a more detailed report may be required, as deemed necessary by the Planning Commission.
6. Habitats of Rare, Threatened and Endangered Species. Development shall avoid these areas as described by the Maryland Department of Natural Resources.

# **ARTICLE XVIII STORMWATER MANAGEMENT**

## **Section 319. Purposes and Authority**

1. The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, reduce local flooding, and maintain after development, as much as possible, the pre-development runoff characteristics.
2. The provisions of this Ordinance pursuant to the Environment Article, Annotate Code of Maryland, are adopted under the authority of the Town of Port Deposit and shall apply to all development occurring within the incorporated area of Port Deposit. The application of this Ordinance and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. The Town of Port Deposit or its designated representative shall be responsible for the coordination and Enforcement of the provisions of this Ordinance.

## **Section 320. Definitions**

For the purposes of this Ordinance, the following definitions describe the meaning of the terms used in this Ordinance:

Adverse impact-means any deleterious effect on waters or wetlands including their quality, quantity, surface area species composition, aesthetics or usefulness for human or natural uses, which are or may be potentially harmful or injurious to human health, welfare, safety, and property. In addition, adverse impact means any detrimental effect to biological productivity, diversity, or stability, which may interfere with the enjoyment of life or property, including outdoor recreation.

Agricultural land management practices-means those methods and procedures used in the cultivation of land in order to further crop and livestock production, conservation of related soil, and water resources.

Applicant-means any person, firm, or governmental agency, who executes the necessary forms to procure official approval for a project or a permit in order to carry out construction of a project.

Aquifer-means a porous water-bearing geological formation that is generally restricted to materials capable of yielding an appreciable supply of water.

Buffer- (spelled with a capital B) means a naturally vegetated area that is established or managed to protect aquatic, wetland shoreline, and terrestrial environments from man-made disturbances. In the Critical Area District, the minimum Buffer is a continuous area located immediately landward of tidal waters (measured from the Mean High Water Line), tributary streams in the Critical Area, and tidal wetlands. It has a minimum width of 110 feet and the Buffer shall be expanded beyond the minimum depth to include certain sensitive areas as per requirements established in the Zoning

Ordinance.

Clearing-means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.

Critical Area-means all lands and waters defined in Section B-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

- a. All waters of and lands under the Chesapeake Bay and it's tributaries to the head of tide as indicated on the State wetlands maps and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- b. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
- c. Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Detention structure-means a permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.

Develop land-means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, and institutional construction or alteration.

Drainage area-means an area contributing runoff to a single point measured on a horizontal plane, which is enclosed by a ridge line.

Easement-means a grant or reservation by the land owner for the use of such land by others for a specific purpose or purposes, which must be included in the conveyance of land affected by such easement.

Exemption-means certain land development activities that are not subject to the stormwater management requirements contained in this Ordinance.

Flow attenuation-means prolonging the flow time of runoff in order to reduce the peak discharge.

Grading-means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

Infiltration-means the passage or movement of water into the soil surface.

Off-site stormwater management-means the design and construction of a facility that is necessary to control stormwater from more than one development.

On-site stormwater management-means the design and construction of systems that are

necessary to control stormwater within an immediate development.

Porous paving-means an open graded asphaltic, reticular concrete, or other material, which allows water to pass through it.

Retention structure-means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

Sediment-means soils or other surficial materials that are transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

Single Family Dwelling-means a single home located on a single lot for the use of a single family only and not located in a subdivision as defined in the Port Deposit Subdivision Regulations.

Site-means any tract, lot, or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership or contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

Stabilization-means the prevention of soil movement by forms of various vegetation, structural means, or a combination of both.

Stormwater management-means:

- a. Quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
- b. Qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

Stormwater Management Committee-consists of one voting representative of the Cecil Soil Conservation District, the Cecil County Department of Public Works, and the Cecil County Department of Planning and Economic Development; for areas outside of incorporated towns and for areas inside of corporate limits of participating towns. It shall consist of one voting representative of the Cecil Soil Conservation District, the Cecil County Department of Public Works, and the affected Town.

Stormwater Management Plan-means a set of drawings or documents submitted by a person as a prerequisite for obtaining a stormwater management approval, which contains all of the information and specifications pertaining to stormwater management.

Stripping-means any activity, which removes the vegetative surface cover and includes tree removal, clearing, grubbing, and storage or removal of topsoil.

Variance-means a modification of the minimum stormwater management requirements for specific circumstances such that strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of the Ordinance.

Waiver-means the relinquishment from stormwater management requirements by the Town if



recommended by the Cecil County Department of Public Works on a case-by-case review basis.

Watercourse-means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in and includes any area adjacent thereto, which is subject to inundation by reason of overflow from flood water.

Watershed-means the total drainage area that contributes runoff to a single point.

Wetlands-means an area that has saturated soils or periodic high groundwater levels and vegetation that has adapted to wet conditions and periodic flooding.

## **Section 321. Applicability**

1. Scope-No person shall develop any land for residential, commercial, industrial, or institutional uses without having provided for appropriate stormwater management measures that control or manage runoff from such developments, except as provided within this section.
2. Exemptions-The following categories of development and development activities are exempted from the requirements of providing stormwater management. This does not exempt the developer from providing an adequate stormwater drainage system or meeting the requirements of the Port Deposit Critical Area Program and associated ordinances.
  - a. All agricultural land management practices recognized by the Soil Conservation District and consistent with the Port Deposit Critical Area Program in the Critical Area District.
  - b. All developments involving no more than 5,000 square feet of disturbed area and not within the Buffer area of the Critical Area Overlay Zone, subject to the provisions concerning subsequent additions.
  - c. Additions or modifications to existing single family detached residential structures provided they are not located within the Buffer area of the Critical Area Overlay Zone.
  - d. Land development activities, determined by the Maryland Department of the Environment, will be regulated under specific State laws, which provide for managing stormwater runoff.
  - e. Residential development located outside the County's Critical Area Overlay Zone consisting of single-family houses, each on a lot of 2 acres or greater.
3. Waivers-The Dept. of Public Works may grant a waiver of the stormwater management requirements for individual developments provided that a written request is submitted by the applicant containing descriptions, drawings, and any other information necessary to evaluate the proposed development. A separate written waiver request shall be determined if the applicant can conclusively demonstrate that:
  - a. The proposed development will not generate more than a 10% increase in the two year pre-development peak discharge rate and will not cause an adverse impact on the receiving wetland, watercourse, or waterbody; or

- b. A site is surrounded completely by existing developed areas, which are served by an existing network of public storm drainage systems of adequate capacity to accommodate runoff from the additional development; or
- c. Provisions that control direct outfall to tidewater are provided when the first ½ inch of rainfall is managed according to infiltration standards and specifications promulgated by the Maryland Department of the Environment.
- d. Commercial, industrial, institutional, and Minor Subdivision residential development (as defined in the Port Deposit Subdivision Regulations) or a single family dwelling, which meets all the following criteria:
  - (1) The site is entirely outside the Critical Area;
  - (2) Impervious surfaces, including gravel roads and parking lots, will not be increased by more than 10,000 square feet; AND total site imperviousness after development will not exceed 10%;
  - (3) Site development will involve the clearing of no more than one acre of wooded area;
  - (4) Runoff from the proposed development will not cause an adverse impact on adjacent properties, receiving wetland, watercourse, or water body.

However, any developer with a project located in the Critical Area receiving a waiver of on-site stormwater management quantitative control shall not be relieved of the responsibility of providing stormwater management for qualitative control. In order to reduce or eliminate pollutants from the first flush runoff event, the developer shall demonstrate that such required measures will be provided. If the proposed development activity is located in the Intensely Developed Area of the Critical Area Overlay Zone, then the developer must demonstrate that the pollutant loading from the site will be reduced by 10%. However, if it can be demonstrated that topography prevents runoff from either directly or indirectly entering tidal waters, then the 10% pollution reduction shall not be required.

The process for determining the pollutant loading reduction shall be outlined by the Critical Areas Commission and the Maryland Office of Environmental Programs in, "A Framework for Evaluation of Compliance With the 10% Rule in the Critical Area," (April, 1987) or a comparable methodology as approved by the Department of Public Works.

- 4. Variances-The Board of Appeals may grant a written variance from any requirement of Section 323 Stormwater Management Criteria of this Ordinance, if there are exceptional circumstances applicable to the site that strict adherence to the provisions of this Ordinance will result in unnecessary hardship and not fulfill the intent of the Ordinance. A written request for variance shall be provided to the Board of Appeals and shall state the specific variances sought and the reasons for their granting. The Board of Appeals shall not grant a variance until sufficient specific reasons justifying the variance are provided by the person

developing land.

## **Section 322. Stormwater Management Plans**

1. Review and Approval of Stormwater Management Plans
  - a. A stormwater management plan or an application for a waiver shall be submitted to the Town by the developer for review and approval of any proposed development, unless otherwise exempted. The stormwater management plan shall contain supporting computations, drawings, and sufficient information that describes the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The Town or its designated representative shall review the plan to determine compliance with the requirements of this Ordinance prior to approval. The plan shall serve as the basis for all subsequent construction.
  - b. Notification of approval or reasons for its disapproval or modification shall be given to the applicant within 30 days after submission of the completed stormwater plan. If a decision is not reached within 30 days the applicant shall be informed of the status of the review process and the anticipated date of completion. The stormwater management plan shall not be considered approved without the inclusion of the signature and signing date of the Town or its designated representative for the plan.
2. Contents of the Stormwater Management Plan-The developer is responsible for submitting a stormwater management plan which meets the design requirements provided by this Ordinance. The plan shall include sufficient information in order to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for the managing of stormwater runoff. The developer or builder shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management plan, or application for a waiver, shall be as follows:
  - a. Site characteristics:
    - (1) Topography survey that shows existing and proposed contours, including area to determine downstream analysis for proposed stormwater management facility.
    - (2) Soil investigation, including boring for construction of small ponds and infiltration practices.
    - (3) Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.
    - (4) Delineation of 100-year floodplains, if applicable.
    - (5) Structure classification (SCS Pond Standard 378).
  - b. Computations
    - (1) Hydrology

- (2) Hydraulic
  - (3) Structural; and
  - (4) For development proposed in the IDA portions of the Critical Area the pre-development and post-development pollutant loadings.
3. In addition to the information listed above stormwater management design plans shall include:
- a. Stormwater management plans:
    - (1) Vicinity map.
    - (2) Drainage area map that shows the watershed boundaries, drainage area, and stormwater flow paths.
    - (3) Proposed improvements that include location of buildings or other structures, impervious surfaces, and storm drainage facilities, if applicable.
    - (4) Location of utilities.
    - (5) Structural details for all components of the proposed drainage systems and stormwater management facilities.
    - (6) Timing schedules and sequence of development clearing that includes stripping, rough grading, construction, final grading, and vegetative stabilization.
    - (7) Maintenance schedule.
    - (8) Notes on drawings specifying materials to be used.
    - (9) Construction specifications.
    - (10) Location of easements and recorded evidence.
  - b. Estimate of stormwater management construction cost.
  - c. Other information as required.

### **Section 323. Permits**

- 1. Permit Requirement-A grading or building permit may not be issued for any parcel or lot unless a stormwater management plan has been approved or waived by the Department of Public Works, as meeting all the requirements under this Ordinance. Where appropriate, a building permit may not be issued without:
  - a. Recorded easements for the stormwater management facility and easements in order to

- provide adequate access for inspection and maintenance from a public right-of-way;
  - b. A recorded stormwater management maintenance agreement; and
  - c. Performance guaranty.
2. Permit Fee-A non-refundable permit fee will be collected at the time the stormwater management plan or application for waiver is submitted. The permit fee will provide for the cost of plan review, administration, and management of the permit process, and inspection of all projects subject to this Ordinance. A permit fee schedule shall be established by the Town based upon the relative complexity of the project and may be amended from time to time.
  3. Permit Suspension and Revocation-Any grading or building permit issued by the Department of Public Works may be suspended or revoked after written notice is given to the permittee for any of the following reasons:
    - a. Any violation(s) of the conditions of the stormwater management plan approval.
    - b. Changes in site runoff characteristics upon which a waiver was granted.
    - c. Construction is not in accordance with the approved plans.
    - d. Non-compliance with correction notice(s) or stop work order(s) issued for the construction of the stormwater management facility.
    - e. An immediate danger exists in a downstream area in the opinion of the Department of Public Works.
  4. Permit Conditions-In granting the plan approval, the Department of Public Works may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

## **Section 324. Stormwater Management Criteria**

1. Minimum Control Requirements
  - a. The minimum stormwater control requirements shall require that all developments provide management measures necessary to maintain the post-development peak discharges for a 24-hour, 2- and 10-year frequency storm event at a level that is equal to or less than the respective, 24-hour, 2- and 10-year pre-development peak discharge rates, through stormwater management practices that control the volume, timing, and rate of flows. Where runoff is discharged into an off-site stormwater management facility, the control requirements and procedures shall be in accordance with subsection 3c.
  - b. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Department of Natural Resources in accordance with the Flood Hazard Management Act of 1976 ( 8-9A-01 et seq., Natural Resources Article).

- c. The minimum stormwater management control requirements shall require that all redevelopment activities shall provide first flush stormwater quality controls, even when predevelopment runoff characteristics are maintained.
- d. The minimum stormwater management control requirements shall require that all development and redevelopment activities which take place in the Intensely Developed Areas (IDA) of the Critical Area shall result in a reduction of pollutant loadings from the site by at least 10%.
- e. The minimum stormwater management control requirements shall require that all development and redevelopment activities which take place in Limited Development Areas (LDA) and Resource Conservation Areas (RCA) in Critical Area shall achieve the following:
  - (1) First flush stormwater quality control;
  - (2) Development may not cause downstream property, watercourses, channels, or conduits to receive stormwater runoff at a higher rate than would have resulted from a 2-year and a 10-year storm were the land in its pre-development state;
  - (3) Stormwater management measures shall be consistent with the requirements of Environment Article, Subsection 4-201 et. seq., Annotated Code of Maryland;
  - (4) Developments which must pass their runoff through an existing closed drainage system or crossroad pipe must manage the rate of a ten year storm.
- f. Stormwater Management Measures Stormwater management measures shall be required to satisfy the minimum control requirements. The stormwater management practices to be utilized in developing a stormwater management plan shall be according to the following order of preference:
  - (1) Infiltration of runoff on-site;
  - (2) Flow attenuation by use of open vegetated swales and natural depressions;
  - (3) Stormwater retention structures; and
  - (4) Stormwater detention structures.
- g. Infiltration practices shall be utilized to reduce volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the Maryland Dept. of the Environment. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the person developing land for rejecting each practice based on site conditions.

## 2. Specific Design Criteria

- a. Infiltration systems shall be designed in accordance to standards and specifications that

are developed or approved by the Maryland Dept. of the Environment and shall meet the following requirements;

- (1) Infiltration systems greater than three feet deep shall be located at least ten feet from basement wall;
  - (2) Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any water supply well and a minimum of 50 feet from any septic field.
  - (3) Infiltration systems may not receive runoff until the entire contributory drainage area to the infiltration system has received final stabilization; and
  - (4) The stormwater management facility design shall provide an overflow system with measures to provide a non-erosive velocity of flow along its length and at the outfall.
- b. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the Soil Conservation Service and shall include the following items;
- (1) Velocity dissipation devices shall be placed at the outfall of all detention or retention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to a water course.
  - (2) Where deemed necessary by the Town, the developer shall submit an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow, established with the concurrence of the Cecil Soil Conservation District, downstream of a tributary of the following size:
    - (i) The first downstream tributary whose drainage area equals or exceeds the contributing area to the pond; or
    - (ii) The first downstream tributary whose peak discharge exceeds the largest designed release rate of the pond.
  - (3) The designed release rate of the structure shall be modified if any increase in flooding or stream channel erosion would result at the downstream dam, highway, structure, or natural point of restricted streamflow. The release rate of the structure shall:
    - (i) Be reduced to a level that will prevent any increase in flooding or stream channel erosion at the downstream control point;
    - (ii) Be not less than one-year pre-development peak discharge rate; and meet the requirements established in section 323.1.
  - (4) Small pond approval shall be obtained from the Soil Conservation District or the Department of Natural Resources pursuant to Natural Resources Article 8-803 (b).

c. Off-site structures to be considered:

- (1) Shall have a contributory drainage area not in excess of 400 acres unless, on a case by case basis, a larger drainage area is approved by the Water Resources Administration;
  - (2) Shall provide for a permanent pool of water or provide for 24-hour detention period for detaining and releasing the volume of runoff from a one-year frequency storm;
  - (3) Shall manage the increase in peak discharges for the 2-year and 10-year frequency storm event(s);
  - (4) May not be located so as to discharge to Class III Natural Trout Waters identified in COMAR 26.08.02, unless authorized by the Department of Natural Resources in permits issued pursuant to Natural Resources Article 8- 803.
- d. The pre-development peak discharge rate shall be computed assuming that all land uses in the site to be developed are in good hydrologic condition.
  - e. The developer shall give consideration to incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales, and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water.
  - f. The Town shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case-by-case review of stormwater management plans.
  - g. Where a stormwater management plan involves redirection of some or all runoff off of the site, it shall be the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.
  - h. The basic design criteria, methodologies, and construction specifications, subject to the approval of the Town and the Maryland Department of the Environment shall be those of the Soil Conservation Service, generally found in the most current edition of the following publications or subsequent revisions:
    - (1) Urban Hydrology for Small Watersheds, Technical Release No. 55, January, 1975.
    - (2) Storm Water Management Pond Design Manual, Maryland Association of Soil Conservation Districts, June, 1975.
    - (3) Soil Conservation Service Engineering Field Manual, latest edition, as applicable.
    - (4) Soil Conservation Service Standard and Specification for Ponds, Specification No. 378, July 1981.
    - (5) A Framework for Evaluation of Compliance With the 10% Rule in the Critical Area, prepared by the Department of Environmental Programs, Metropolitan



## **Section 325. Performance Guarantee**

The Department of Public Works shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Department of Public Works prior to the issuance of any building and/or grading permit for construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The security so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all the provisions of this Ordinance and other applicable laws and regulations, and any time limitations. The security shall not be fully released without a final inspection of completed work by the Department of Public Works, submission of "As-built" plans by the developer, and certification of completion by the Department of Public Works of the stormwater management facility as being in compliance with the approved plan and the provisions of this Ordinance. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of development as specifically delineated, described, and scheduled on the required plans and specifications. The developer shall notify the Department of Public Works upon completion of each stage that is ready for inspection.

## **Section 326. Inspection**

1. Inspection Schedule and Reports
  - a. Prior to approval of a Stormwater management plan, the developer will submit to the Department of Public Works a proposed inspection and construction control schedule. The Department of Public Works or their authorized representative shall conduct inspections and file reports for periodic inspections necessary during construction of stormwater management systems to ensure compliance with the approved plans.
  - b. No work shall proceed until the Department of Public Works inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.
  - c. Any portion of the work which does not comply will be promptly corrected by the developer, after written notice from the Department of Public Works. The notice shall set forth the nature of corrections required and the time within which corrections will be made.
  - d. The developer shall notify the Department of Public Works before commencing any work in conjunction with the Stormwater management plan and upon completion of the project when a final inspection will be conducted.
2. Inspection Requirements During Construction-After commencing initial site operations, regular inspections shall be made at the following specified stages of construction:
  - a. Infiltration systems - at the commencement, during, and upon completion of construction.

- b. Porous paving infiltration systems-at the following stages so as to ensure proper placement and allow for infiltration into the subgrade:
  - (1) Upon completion of stripping, stockpiling, the construction of temporary sediment control and drainage facilities;
  - (2) Upon completion of subgrade section;
  - (3) Upon completion of reservoir base course;
  - (4) Upon completion of the top crushed stone course; and
  - (5) Throughout the placement of the porous asphaltic concrete surface course to ensure proper laying temperatures and compaction.
- c. Flow attenuation devices, such as open vegetated swales upon completion of construction.
- d. Retention and detention structures - at the following stages:
  - (1) Upon completion of excavation to sub-foundation and where required, installation of structural supports or reinforcement for structures, including but not limited to:
    - (i) Core trenches for structural embankments;
    - (ii) Inlet-outlet structures and anti-seep structures, watertight connectors on pipes; and
    - (iii) Trenches for enclosed storm drainage facilities.
  - (2) During placement of structural fill, concrete, and installation of piping and catch basins
  - (3) During backfill of foundations and trenches;
  - (4) During embankment construction; and
  - (5) Upon completion of final grading and establishment of permanent stabilization.

### 3. Final Inspection-Reports

A final inspection shall be conducted by the Department of Public Works upon completion of the stormwater management facility to determine if the completed work is constructed in accordance with approved plan and this Ordinance. "As -built" certification from the developer by a registered professional engineer licensed in Maryland is also required to certify that the facility has been constructed as shown on the "As-built" plans and meets approved plans and specifications.

The developer will receive written notification of the results of the final inspection. The Department of Public Works shall maintain a permanent file of inspection reports.

4. Inspection for Preventive Maintenance

a. Preventive maintenance shall be ensured through inspection of all infiltration systems, retention, or detention structures by the Department of Public Works. The inspection shall occur during the first year of operation and at least once every 3- years thereafter.

b. Inspection reports shall be maintained by the Department of Public Works on all retention and detention structures and shall include the following:

(1) The date of inspection;

(2) Name of inspector;

(3) The condition of:

(i) Vegetation;

(ii) Fences;

(iii) Spillways;

(iv) Embankments;

(v) Reservoir area;

(vi) Outlet channels;

(vii) Underground drainage;

(viii) Sediment load; or

(ix) Any other item that could affect the proper function of the stormwater management system.

(4) Description of needed maintenance.

c. If, after an inspection by the Department of Public Works, the condition of a stormwater management facility presents an immediate danger to the public health or safety, because of an unsafe condition or improper maintenance, the Department of Public Works shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the County/Municipality shall be assessed against the owner(s).

## **Section 327. Maintenance**

1. Maintenance Agreement

a. Prior to the issuance of any building permit for which stormwater management is required, the Department of Public Works shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by the private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspection by the Department of Public Works or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

- b. The agreement shall be recorded by the applicant and/or owner in the land records of the County.
- c. The agreement shall also provide that, if after notice by the Department of Public Works to correct a violation requiring maintenance work and satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Department of Public Works may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties and there shall be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the County/Municipality.

## 2. Maintenance Responsibility

- a. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, v-walls, drains, dams, and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restorations, and maintenance shall be in accordance with approved plans.
- b. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

## **Section 328. Appeals**

Any person aggrieved by the action of any official charged with the enforcement of this Ordinance, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the Ordinance in regard to a specific application, shall have the right to appeal the action to the Mayor and Council. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, and shall state clearly the grounds on which the appeal is based.

## **Section 329. Severability**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance, it being the intent of the Town Council that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

## **Section 330. Penalties**

Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$5,000 or imprisonment not

exceeding one year or both for each and every violation with costs imposed in the discretion of the court. Each day that the violation continues shall be a separate offense. In addition thereof, the Mayor and Council may institute injunctive, mandamus or other appropriate action or proceedings at law or equity for the enforcement of this Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent, injunctions or mandamus or other appropriate forms of remedy or relief.

**Section 331.       Reserved**

## **ARTICLE XIX ZONING AMENDMENTS**

### **Section 332. Zoning Amendments In General**

1. The Town Council may from time to time amend, supplement, modify, or repeal the regulations, or district boundaries herein established on its own motion or on petition of the owner(s) or contract owner(s) of the property proposed for change.
2. Any application for a zoning amendment shall contain specific information setting forth the basis for the granting of the request. Any application must disclose the names and addresses of all persons having legal or equitable interest in the property which is the subject of the amendment, including shareholders owning more than five (5) percent of the stock in a corporation that has any interest in land involved in the application, excepting those corporations which are listed and regularly traded on a recognized stock exchange.

### **Section 333. Initiation of Amendments**

1. Any owner or contract owner wishing to amend, supplement, modify, or repeal any portion of this Ordinance shall file a Zoning Amendment Petition with the Town Administrator in such form and accompanied by such information as may be required by the Planning Commission.
2. Upon determination by the Town Administrator that the application is complete in accordance with the herein requirements, the application shall be promptly submitted for comment and review to appropriate Town, county, and state departments and agencies. Upon such administrative review (to be completed within sixty (60) days from submission by the Zoning Inspector) the application shall be submitted to the Planning Commission.

### **Section 334. Planning Commission Consideration of Proposed Amendments**

1. The Planning Commission shall consider the application and shall conduct a public hearing regarding the application. The public hearing shall be conducted as follows:
  - a. The applicant shall be given ample time to present his case to the Planning Commission. In so doing the applicant may call on expert witnesses to support his request.
  - b. The Zoning Inspector and/or Town Administrator may present a staff report representing a review of the application by the Town staff. The staff report shall include, without limitation, the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the relationship of such proposed amendment to the Town of Port Deposit Comprehensive Plan, and a recommendation for approval or denial of the proposed amendment.
  - c. The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary in deciding its approval or denial of the application.
  - d. The Public shall be given an opportunity to testify or ask questions of the applicant, his witnesses, or the planning staff. The Planning Commission may in turn question those testifying and may place a reasonable time limit for such testimony.

2. Within sixty (60) days from the Planning Commission's final hearing on the application, the Planning Commission shall transmit the application to the Town Council together with its recommendations for approval or disapproval. The Planning Commission shall concurrently transmit this information to the applicant.
3. After the Planning Commission makes its formal recommendation on the application, the Town Council shall hold a public hearing on the application.

### **Section 335. Hearing Required; Notice**

All public hearings shall be conducted in accordance with the provision of Article 66B, Section 4.04, Annotated Code of Maryland.

### **Section 336. Mayor and Town Council Action on Amendments**

1. Before approving or disapproving any application for amendment, the Town shall hold at least one (1) public hearing in relation to the application, at which parties in interest and citizens shall have an opportunity to be heard.
2. The Town Council shall hold a public hearing, as set forth in Section 335, within sixty (60) days after receipt of the Planning Commission's recommendation.
3. Prior to holding the public hearing, the property in question shall be posted and all property owners within 200 feet of subject property shall be notified by the applicant by registered or certified mail at the last known address as reflected on the tax records.
4. In reaching a decision on zoning amendments, the Town Council shall make findings of fact in each specific case including, but not limited to, the following matters: population change, adequacy of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendations of the Planning Commission, relation to the Comprehensive Plan, fiscal impact upon Town government, and the suitability of the property in question to the uses permitted under the existing and proposed zoning classifications; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. It shall be the responsibility of the applicant to delineate the boundaries of the neighborhood and to identify the change in the character of the neighborhood.
5. An application for reclassification shall not be accepted for filing by the Town Administrator if the application is for the reclassification of the whole or any part of land which has been denied by the Town Council until twelve (12) months from the date of denial.
6. The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application, and the final decision of the Town Council. The record shall be open to public

inspection and shall be maintained in the Town Office. The burden of proof for any zoning change shall be upon the applicant.

### **Section 337. Amendments for Floating Zones**

1. The provisions of this Article regarding the procedures and requirements of public hearings and findings of fact to be made regarding applications shall also apply to requests for floating zone designation except that it shall not be necessary to prove change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval. In floating zones the test for approval or denial shall be compatibility with the neighborhood and consistency with the comprehensive plan.
2. Procedures to maintain a floating zone once granted with the Critical Area.
  - a. Within one year of the granting of a floating zone, application for building permits must be filed with requisite fees paid; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.
  - b. Within one year of the issuance of a building permit, construction shall be commenced on the land so zoned; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.
  - c. Within three years of the granting of a floating zone, 75 percent of the public improvements devoted to such use or uses as may be permitted in the zoning district shall be completed; otherwise, the zoning shall revert automatically to its prior district classification. The property owners have the ability to petition the Town Council for an extension.

### **Section 338. Amendments in Critical Area District**

1. Amending the Critical Area Boundary and Land Use Management Classifications
  - a. The Town Council may from time to time, amend the land use management classification of properties in the Critical Area District.
  - b. In addition, the Town Council shall complete a comprehensive review and propose any necessary amendments, as required, to the land management classifications, or Critical Area Program at least every four (4) years. The Town Council's Comprehensive Review Report to the Critical Area Commission shall be in accordance with Subtitle 18, Subsection 8-1809 1(c) and (d) of the Critical Area Law.
  - c. All such amendments shall also be approved by the Maryland Chesapeake Bay Critical Area Commission (Critical Area Commission) as established in Subsection 8-1803 of the Critical Area Law, Subtitle 18. Standards for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Subsection 8-1809(J), as revised July 1, 1990. The Critical Area Commission process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Subsection 8-1809 (d), as revised July 1, 1990.



2. Applications for land use management classification or Critical Area Program amendment shall be processed as any other proposed amendment to this Ordinance and are subject to the Chesapeake Bay Critical Area Commission approval.
3. Requirements for Amendments:
  - a. Land Use Management Classification - When considering a proposed change of land use management classification, i.e., Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA), the Town Council shall not approve amendments unless it is found that there was a mistake in the original classification, or the site will be granted the Growth Allocation (GA) Floating Zone district classification.
  - b. Adding land to the Critical Area District
    - (1) The Town Council may amend the Critical Area Boundary to add land to the Critical Area District, including land areas for which property owners have requested such an amendment provided that:
      - (i) It is documented that the benefits from the additional resource protection afforded the area exceeds the negative impact of any additional development allowed and that provisions are proposed to ensure the continuance of these benefits;
      - (ii) The proposal is supported by competent and material evidence on its benefits for resource protection;
      - (iii) The proposal clearly improves resource protection on primarily undeveloped land;
      - (iv) The extended area is added as a Resource Conservation Area (RCA), and any proposed development meets all RCA requirements; and
      - (v) Five percent of the extended areas that are not nontidal wetlands or publicly-owned land can generate growth allocation for the Town.
    - (2) Any land or portion added to the Critical Area District under these provisions that has been combined with adjacent Critical Area lands for the purpose of increasing the number of dwelling units that may be placed on the adjacent Critical Area parcel may not be subsequently deleted from the Critical Area District.

### **Section 339. Growth Allocation (GA) Floating Zone**

1. Designation of Floating Zone
  - a. The Growth Allocation (GA) District shall be floating zones.
  - b. The Growth Allocation (GA) District provides for changing the sub-district (land management) classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area District. The GA district shall only be permitted on sites or portions of sites that have been awarded reclassification through the Growth Allocation process. These are approved land management classification changes,

adopted by the Town Council, as an amendment to the Port Deposit Critical Area Program and Official Maps.

2. The Growth Allocation (GA) Floating Zone shall be processed in accordance with the provision of Section 337.
3. The following are the procedures for accounting for growth allocation acres:
  - a. Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is classified by the Port Deposit as a Growth Allocation Floating Zone, shall result in the acreage of the entire parcel counting against the Town of Port Deposit's Growth Allocation, unless the following conditions obtain:
    - (1) On Qualifying Parcels as described below, on which a change in classification is approved, a development envelope shall be specified, the acreage of which will be counted against the Town's Growth Allocation.
    - (2) The envelope shall include individually owned lots, any required Buffers, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria.
  - b. The remainder of the parcel will not count against the Town's Growth Allocation if it is contiguous and at least 20 acres in size, retained its natural features or its use by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and is restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Critical Area Commission. A Forest Management Plan is required for any forested areas in the undeveloped portion of the parcel. Replanting shall be accomplished on lands abandoned from agriculture. Parcels of land that qualify for application of the above guidelines are the following:
    - (1) Those parcels designated as new IDA's which are located within an LDA or adjacent to an existing IDA, and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands or tributary streams providing such designation:
      - (i) minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
      - (ii) minimizes adverse impacts to Habitat Protection Areas; and
      - (iii) optimize benefits to water quality.
    - (2) Those parcels designated as new LDA's which are located adjacent to existing LDA's or IDA's and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams providing such designation conforms to the requirements of (1)(b) and (c) above.

## DISPOSITION LIST

SECTION	EFFECTIVE DATE	RES/ORD NO.
Forest Conservation Program Agreement w/ Cecil County	10/7/2003	Res. 2003-20
Adoption of Revised Zoning Ordinance and Zoning Map	10/7/2003	Res. 2003-20
Zoning Ordinance and Zoning Map Adoption and Enactment Article II, Definitions Section 101 Repair, Maintenance, Reconstruction Section 175 Table of Permissible Uses Section 226 Schedule of Zone Regulations Section 185 Residential Structures Section 167 Infill Development Overlay District (IDOD)	7/4/2005	Res. 2004-05
Article IX Zoning Districts, Part IV Critical Area Amendments	4/15/2005	Res. 2005-08
Rezoning Map Amendment – Parcel 6 – R-1 to CBD	4/5/2005	Res. 2005-09
Article IX Zoning Districts, Part II, Section 110, Subsection 3 (added language to BX Zone)	8/30/2005	Res. 2005-11
Article VII, Section 90, add new 5 – demo w/out permit	10/2/2007	Ord. 2007-01
Zoning Map Amendments (Race St & Granite Ave. R-1 to RM) Amendment Article II, Part I, Section 12 Definitions Amendment Article IV, Part 1, Section 40 Amendment Article XII, Section 221, 1 (b) Amendment Article XVI, Part 1, Section 279	2/6/2008	Res. 2008-01
Zoning Map Amendment (parcels 29-48 & 99 – Zone CBD)	2/2/2010	Res. 2010-01
Zoning Map Amendment (parcel 328 – Zone CBD)	2/2/2010	Res. 2010-02
Article III, Section 24 Appointments and Terms of Board of Appeals (changed number of members from 5 to 3).	4/2/2013	Vote at Council Mtg.
Floodplain Management Ordinance Adopted – Revised w/Ord.2015.02	5/25/2013	Res. 2013.01
Article IX Zoning Districts, Part V Floodplain Overlay Zone	5/4/2015	Ord. 2015-02
Comprehensive Amendments to Multiple Articles (see document filed w/ Ord. 2016-01) Incorporated all previous amendments into the document; Amended all references to State regulations as applicable throughout the document.	5/9/2016	Ord. 2016-01

SECTION	EFFECTIVE DATE	RES/ORD NO.
Article IX, Section 109 8. – Added new number 8. for B&I Employment District	3/9/2020	Ord. 2020-01
Zoning Map Amendment – Deleted BX Mixed Use & inserted B&I Employment District	3/9/2020	Ord. 2020-02
Article IX Development Approval, Section 39 Permit Application Requirements & Procedures, 2. b. (2) – deleted BX & inserted B&I Employment;  Article IX Zoning Districts, Section 108 Districts Established, 1. – Inserted B&I Employment District and 2. Deleted BX Bainbridge Mixed Use District, Section 110 - Deleted & inserted Reserved & Section 112 - Deleted & inserted Reserved;  Article X Permissible Uses, Section 175 Table of Permissible Uses – revised for B&I District;  Article XII Density & Dimensional Regulations, Section 226 Schedule of Zone Regulations (Density and Dimensional Regulations – revised for B&I District;  Article XV Signs, Section 264 Permitted Signs, - Deleted 3. a., b., c., & d., Section 266 Banners, Pennants & Special Event Signs - Deleted 3. b. & 4. a. (1);  Article XVII Screening, Shading, Forest Cons. & Env. Standards, Section 292 Table of Required Bufferyards – revised for B&I District	3/9/2020	Ord. 2020-03
Article X Table of Permissible Uses – revised for B&I District. Section 181 Group Home, Halfway House, Assisted Living Facilities – revised for B&I, Section 198 Adult Oriented Commercial – revised for B&I District; and Section 205 Swimming Pools, Commercial - deleted.	7/27/2020	Ord. 2020-05
Article XV Signs – Section 264 Permitted Signs, add new 3. B&I District Signs	7/27/2020	Ord. 2020-06
Article 175 – Table of Permissible Uses; Section 178 Camping and Recreational Vehicle Parking	10/26/2020	Ord. 2020-07
Article XI Supplemental Use Regulations, Section 211 Occasional Festivals, Events of Public Interest or Special Events, Seasonal Business and/or Use  Resolution 09-2020 Regulations for Seasonal Business/Use	10/26/2020	Ord. 2020-08 Refer to Resolution 09-2020 for additional Seasonal Use Regulations.