

ZONING ORDINANCE

FOR THE

TOWN OF CHESAPEAKE BEACH

IN CALVERT COUNTY, MARYLAND

Approved and Adopted by

The Mayor and Town Council

Town of Chesapeake Beach

February 19, 2004

REVISIONS:

<u>Date</u>	<u>Ordinance #</u>	<u>Section</u>
6/30/04	O-04-7	Add Section 1-306 – Limited Grandfathering
6/30/04	O-04-10	7-203 – Adopting a Schedule of Fees, Charges and Expenses for Zoning Procedures
5/11/05	O-05-3	Amend Section 11-301 by replacing in its entirety the definition of a Buffer, and amending Section 4-410 by replacing in its entirety subsection (c)
5/11/05	O-05-4	Amend Section 8-206 by replacing in their entirety subsections (d) and (e)
5/11/05	O-05-5	Add Section 7-503, Critical Area Fines and Penalties.

12/15/05	O-05-14	Amend Section 5-115, Special Application of Height Restrictions in R-LD, R-MD, and R-V Districts.
12/15/05	O-05-17	Amend Section 1-306, Limited Grandfathering.
3/8/06	O-06-3	Amend Section 5-106, Permitted projections into required yards.
3/8/06	O-06-2	Amend Section 8-203, Procedures, Meetings, Records and Decisions and Section 8-204, Notice of Hearings.
3/8/06	O-06-6	Amend Section 8-205, Powers and Duties- Interpretation.
3/8/06	O-06-5	Amend Section 8-210, Rules and Procedures for Filing Interpretation and Variance Appeals and Special Exception Applications.
3/8/06	O-06-4	Remove Subsection (o) of Section 7-101, Administration of Permitting Process, to remove the Zoning Administrator's authority to grant tolerances of up to 20% for individual residential lots, and re-designating the subsequent subsections.
3/8/06	O-06-1	Amend Section 7-501, Fines and Penalties.
4/5/06	O-06-7	Amend Appendix A raising the fee for single family residential variance cases, residential special exception cases, and interpretation appeal cases.
8/22/06	O-06-9	Amend Zoning Code by removing erroneous grandfathered lot qualifications to the Development Standards applicable to Intensely Developed Areas, Limited Development Areas, and Resource Conservation Areas.
10/11/06	O-06-12	Amend Section 5-106, Permitted Projects into Require Yards, and Section 5-107, Accessory Buildings in Side and Rear Yards, to regulate the placement of porches and decks within the setbacks established by the Zoning Code's building restriction lines.
12/6/07	O-6-14	Amend the Town's Local Critical Area Program and Chapter 50, Zoning Code, by adopting the forest and developed woodland master plan and recommendations contained there, amending the buffer and buffer exemption regulations, amending the woodland reforestation and afforestation standards, amending the limited

development area district regulations and establishing a fees-in-lieu of mitigation program.

- | | | |
|----------------|----------------|---|
| 2/7/07 | O-6-17 | Remove Section 5-115, Special Application of Height Restrictions in R-LD, R-MD, and R-V Districts, amending Section 5-112, Height Exceptions of a maximum regulations, and amending Section 11-201, the definition of building height. |
| 12/7/07 | O-07-10 | Amending the Town's local Critical Area Program and Chapter 50, Zoning Code, by amending Section 4-408(c) and Section 4-401(b)(8)(f)(iii) to require planting agreements for mitigation, afforestation, and reforestation plans, removing the requirements for surety protection for projects requiring less than \$3,000 in plantings, and allowing certificates of deposit and the depositing funds with the Town as alternatives to surety protection for projects with planting requirements over \$3,000. |
| 4/10/08 | O-8-1 | Amend the definition of dwelling, single-family attached and dwelling, townhouse, in Section 11-201, Definitions, of Chapter 50, Zoning code, to remove ambiguities in the definitions and to change the threshold number of units that distinguishes a development between dwelling, single-family attached and dwelling, townhouse, from five to four. |
| 9/11/08 | O-08-7 | Amend Section 5-104, Exceptions to Minimum Lot Sizes and Lot Widths, of Chapter 50, Zoning Code, to require that grandfathered lots which utilize the lot width exception to construct a single family residence shall be subject to supplement limitations on the height of the structure. |
| 3/11/10 | O-10-1 | Add Section 7-101, Fees; Increased fees for after-the-fact applications. |

ARTICLE 1

GENERAL PROVISIONS

Part 1	Title	1-1
Part 2	Purpose	1-1
Part 3	Applicability	1-1
Part 4	Interpretations	1-2
Part 5	Severability	1-4
Part 6	Effective Date	1-4
Part 7	Fees	1-4

1-100 TITLE

1-101 Title

This Ordinance shall be known and may be cited as the "Zoning Ordinance for the Town of Chesapeake Beach in Calvert County, Maryland."

1-200 PURPOSE

1-201 Purpose

This Zoning Ordinance is intended to promote the health, safety and general welfare of the public; to facilitate the creation of a convenient, attractive and harmonious Town; to preserve the character of the Town by preventing the harmful effects of prejudicial uses; to conserve properties and their value; to encourage the appropriate uses of land and the appropriate redevelopment of existing uses; to prevent environmental pollution; and to implement the adopted Chesapeake Beach Comprehensive Plan for the orderly and controlled growth of the Town.

Furthermore, this Ordinance is intended to limit, regulate, and restrict the location, height, bulk, and size of buildings and other structures; building lines, minimum frontages, depths and areas of lots, and percentages of lots which may be occupied; the side of yards, courts, and other open spaces; the erection of temporary stands and structures; the density and distribution of population; the uses of land, buildings, structures and premises for trade, industry, residence, recreation, agriculture, public activities, and other purposes within the Town of Chesapeake Beach; to divide the Town of Chesapeake Beach into Districts, shown on a set of maps, adopted as part of this Ordinance and entitled: "Zoning Map of the Town of Chesapeake Beach in Calvert County, Maryland" and to impose, in each of said Districts, regulations designating the kinds of classes of trades, industries, residences, or other purposes for which land may be used or buildings and other structures may be erected, altered, or used and within the said Districts to regulate the location, height, bulk, and size of buildings and other structures; building lines, minimum frontages, depths and areas of lots, courts, and other open spaces; the erection of temporary stands and structures; the density and distribution of population; and to provide for the administration of this Ordinance, for fees for services in connection therewith, and for the enforcement of these regulations.

The purpose of this Ordinance is the promotion of the public health, safety, morals, and the general welfare by:

- (a) Guiding future growth, development, redevelopment, and infill development in accordance with the Chesapeake Beach Comprehensive Plan.
- (b) Providing for orderly growth, development, and redevelopment of the Town to protect and conserve the value of land and structures.
- (c) Assuring an adequate level of utilities and facilities to support development and redevelopment of the Town.
- (d) Providing for a variety of housing types and residential densities.
- (e) Giving deliberate consideration to the values of the Chesapeake Bay, other waterfront areas, wetlands, slopes, forested areas, scenic beauty, and other natural features.
- (f) Providing adequate light and air, securing safety from fire and other dangers, preventing overcrowding of the land, and undue congestion.
- (g) Achieving and maintaining coordination and compatibility between land uses, structures, streets, and natural features.
- (h) Maintaining and improving the appearance and enjoyment of the built environment.

The further purpose of this Zoning Ordinance is to establish zoning Districts and regulations governing the development and use of land in the incorporated area within Chesapeake Beach, in accordance with the provisions of Article 66B, Code 8-1808(d), as amended, Subtitle 15, Chesapeake Bay Critical Area Commission Criteria for Local Critical Area Program Development, Code of Maryland and the Town of Chesapeake Beach Chesapeake Bay Critical Area Protection Program (hereinafter "The Town Critical Area Protection Program"), as amended, to provide for regulations governing nonconforming uses and structures; to delegate duties and responsibilities to the Planning and Zoning Commission; to provide for a Board of Appeals and its powers and duties; to provide for permits; to provide for the collection of fees; to provide for administration of this Ordinance; to provide penalties for the violation of this Ordinance; and other matters generally related thereto.

1-300 APPLICABILITY

1-301 Territorial Application

The provisions of this Ordinance shall apply to all land and all improvements in the incorporated boundaries of the Town of Chesapeake Beach, Maryland.

1-302 Land

Where land is subdivided, the division shall be effected in a manner that will not violate the provisions of this Ordinance.

1-303 Yards

- A. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- B. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

1-304 Improvements

- A. No building, structure, or land shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered internally or externally, or enlarged except in conformity with this Ordinance and all the regulations herein specified for the zoning district in which it is located.
- B. No building or other structure shall hereafter be erected or altered to:
 - Exceed the height;
 - Accommodate or house a greater number of families;
 - Occupy a greater percentage of lot area,
 - Have narrower or smaller rear yards, front yards side yards or other open spaces; than herein required; or in any other manner contrary to the provisions of this Ordinance.

1-305 Uses in Critical Area

No person shall develop, alter, or use any land for residential, commercial, industrial or institutional uses, nor conduct agricultural, fishery or forestry activities in the Chesapeake Beach Critical Area except in compliance with the applicable provisions contained herein, and with all the requirements set out in the Critical Area Program. To ensure this end, no development or resource utilization activity shall be permitted until the Town Planning Commission shall make specific findings as to whether the proposed development or activity is within the critical area and, if so, whether it is consistent with the goals and objectives of the Chesapeake Beach Critical Area Program, and shall have issued a Certificate of Compliance with the Critical Area Program certifying same.

1-306 Limited Grandfathering (Revised December 15, 2005)

All preliminary plan approvals, which for the purpose of this section shall include preliminary site plan approvals and conditional preliminary subdivision plat approvals and preliminary subdivision plat approvals, granted by the Planning & Zoning Commission before the effective date of this Ordinance and which have not expired, shall qualify the development project contained therein for limited grandfathering. For the purposes of this section, limited grandfathering shall mean that the applicant and/or owner (including co-applicants and co-owners) of properties affected by an approved preliminary plan, and their respective principals, successors and assigns, shall have the right to elect to utilize the provisions of the Town's zoning laws in effect at the time of their preliminary plan approval during the consideration of the final site plan approval or final subdivision approval, so long as the final plan: (1) meets all of the conditions, terms of approval, or recommendations of the Planning & Zoning Commission made at the time of the preliminary plan approval; and (2) except for changes necessary to meet the conditions, terms of approval, or recommendations of the Planning & Zoning Commission determines that the final plan is substantially consistent with the preliminary plan. If the applicant or owner shall elect to utilize the limited grandfathering provided by this section, any special exceptions and/or variances

necessary under the zoning laws in effect at the time of the preliminary plan approval shall be determined in accordance with the provisions of the Town's zoning laws in effect at the time of the preliminary plan approval.

1-400 INTERPRETATIONS

1-401 Minimum Requirements

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare of the Town of Chesapeake Beach.

1-402 Conflicting Resolutions

Whenever any provisions of this Ordinance impose a stricter requirement or a higher standard than is required in any Federal or State statute or other Town ordinance or regulation, the provisions of this Ordinance shall govern. Whenever any provision of any Federal or State statute or other Town ordinance or regulation imposes a stricter requirement or higher standard than is required by these regulations, the provisions of Federal/State or other Town ordinance or regulation shall govern.

1-500 SEVERABILITY

1-501 Severability

Should any section or any provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

1-600 EFFECTIVE DATE

1-601 Effective Date

This ordinance was adopted by the Mayor and Town Council of the Town of Chesapeake Beach by Ordinance Number O-04-1 dated February 19, 2004 and became effective at 12:01 AM on March 10, 2004, at which time the Chesapeake Beach Zoning Ordinance adopted June 17, 1992, as amended was repealed, along with any and all other Chesapeake Beach Zoning Ordinances and/or amendments.

1-700 FEES (Added 3/11/10)

1-701 Fees; Increased Fees For After-The-Fact Applications.

Applicants for zoning permits or approvals pursuant to this zoning ordinance shall pay the fees set forth in Appendix A hereto. An application filed after a use is established or any portion of the

work that is the subject of the application has been performed shall be subject to a fee of 200% of the fee otherwise established in Appendix A for such application, or \$300, whichever is greater.

ARTICLE 2

ZONING DISTRICTS AND MAPS

Part 1	Establishment of Zoning Districts and Boundaries	2-1
Part 2	Rules for Interpretation of Zone Boundaries	2-2
Part 3	Annexed Lands	2-3

2-100 ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

2-101 Zoning Districts Established

The incorporated territory of the Town of Chesapeake Beach shall be divided into zoning districts defined in Article 3 and the overlay districts defined in Article 4 of this Ordinance.

2-102 Zoning Map

- (a) The locations and boundaries of the zoning districts are established on the Official Zoning Map, Chesapeake Beach, Maryland". The Official Zoning Map and all explanatory material on the map is incorporated by reference and made a part of the Ordinance. The Official Zoning Map is located in the Chesapeake Beach Town Hall. Copies of the map may be prepared and published for guidance but shall not be considered to supersede the Official Zoning Map.
- (b) If, in accordance with the provisions of this Ordinance and Article 66B, Title 2, Annotated Code of Maryland, changes are made in zoning district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the Mayor and Town Council. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this Ordinance involving matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
- (c) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Article 7 of this Ordinance.

2-103 Replacement of Official Zoning Map

- (a) In the event that the Official Zoning Map becomes damaged, destroyed, lost or becomes difficult to interpret because of the nature of number of changes and additions, the Mayor and Town Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.
- (b) The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map and may incorporate validly enacted amendments to the official zoning map, but no such correction shall itself have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

- (c) The Planning Commission shall certify as to the accuracy of the new Official Zoning Map prior to its adoption by the Mayor and Town Council.

2-104 Critical Area Overlay District Maps

- (a) Official Critical Area Overlay District Maps shall be prepared and maintained as part of the Office Zoning Map of the Town. The maps shall delineate the extent of the Critical Area Overlay District that shall correspond to the Chesapeake Bay Critical Area. Within the designated Critical Area, lands shall be designated one of the following land use management categories:
 - (1) Intensely Developed Area (IDA)
 - (2) Limited Developed Area (LDA)
 - (3) Resource Conservation Area (RCA)
- (b) For any parcels, which may be annexed but not immediately rezoned, the basic land use management restrictions contained in Chesapeake Beach's Critical Area Program will apply and be administered. The regulations for the Critical Area Zones shall be in addition to those imposed by the underlying zoning requirements and, in the case of conflict, the more restrictive shall control.
- (c) The Town may also act to amend the Critical Area District Map to delete areas of the Town from the Critical Area District or to add areas to the Critical Area District. Any adjustments or changes shall be in compliance with the amendment provisions of this Ordinance and the Natural Resources Article, Section 8-1809 of the Maryland Annotated Code. Any adjustments shall be treated as amendments of the Critical Area Overlay District on the Official Critical Area Overlay District Map for the Town of Chesapeake Beach.

2-200 RULES FOR INTERPRETATION OF ZONE BOUNDARIES

2-201 Interpretation of Zone Boundaries

Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following Town limits shall be construed following Town limits.
- (d) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (c) above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.
- (e) Where a lot is divided by one or more zone boundary lines, each of said divisions of the lot shall be subject to the regulations of the district in which it is located.

- (f) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (e) above, the Board of Appeals shall interpret the zone boundaries.

2-300 ANNEXED LANDS

2-301 Newly Annexed Lands

Any areas annexed to the Town of Chesapeake Beach on or after June 17, 1992 shall immediately be classified Low Density Residential District until a zoning map for said area has been adopted by the Mayor and Town Council after preparation of a General Plan for said area. The Planning and Zoning Commission shall recommend to the Mayor and Town Council such General Plan and zoning map for the newly annexed area within six (6) months immediately following the effective date of annexation of such additional area. However; a zoning map based on a General Plan for said area may be approved by the Mayor and Town Council prior to and effective upon annexation after public notice and hearing as provided in Article 7 of this Ordinance.

ARTICLE 3

ZONING DISTRICTS

Part 1	Purpose and Intent of Districts	3-1
Part 2	Land Uses by District	3-2
Part 3	Special Exceptions for Conditional and Special Exception Uses	3-3
Part 4	Special Exceptions through the Board of Appeals	3-17
Part 5	Commercial Rezoning	3-20

3-100 PURPOSES AND INTENT OF DISTRICTS

3-101 Purpose of Districts Generally

Zoning districts are established to provide appropriate location for different types of land uses. The appropriate location for a particular land use is determined by:

- (a) The character of the area and current land uses.
- (b) The suitability of each district for the uses permitted in each.
- (c) The encouragement of the stability of the district and of land values therein.
- (d) Environmental considerations.
- (e) Recommendations of the Town of Chesapeake Beach Comprehensive Plan.

3-102 R-LD - Residential, Low Density District

The R-LD District is intended to promote a pleasant and safe living environment, to create, preserve and protect a single-family detached residential character, to keep these areas free from land uses that are incompatible with and/or might adversely impact single-family neighborhoods and to conserve the physical qualities of the landscape that attract people to the Town.

3-103 R-MD - Residential, Medium Density District

The R-MD District is intended to promote a pleasant and safe living environment, to allow houses on small lots with public water and sewer, to help ensure that new infill development or redevelopment is compatible and harmonious with existing residential activities and to integrate new development with the character and function of the Town through use of natural features to provide pedestrian and visual linkages.

3-104 R-HD - Residential, High Density District

The R-HD District is intended to promote a pleasant and safe living environment, to encourage a variety of housing types, attached and multi-family, at higher densities, to promote residential uses that are enhanced by proximity to the waterfront, and through the clustering of home sites and other means, give maximum attention to preservation and conservation of natural features and recreational potential.

3-105 R-V - Residential Village District

The R-V District is intended to provide pleasant and safe residential neighborhoods containing a variety of housing types and densities and certain non-residential uses that are compatible with residential character, and to encourage and facilitate redevelopment and infill that is compatible in use, scale, and impact with residential use and the existing pattern of buildings, streets and blocks.

3-106 C - Commercial District

The Commercial District is intended to provide locations for commercial and other non-residential uses that are compatible in scale and impact with nearby residential neighborhoods, and to protect and provide a safe and attractive environment for shopping, entertainment and community gathering.

3-107 M - Maritime District

The Maritime District is intended to promote a variety of land uses that are water-related and/or benefit from locations near the water, while at the same encouraging the gradual re-emergence of the natural systems found near the water and the protection of the commercial marine activities that have become the Town's waterfront heritage.

3-108 RC - Resource Conservation District

The Resource Conservation District is intended to protect and maintain wetlands, surface water, forest, and barren lands identified in the Town's Chesapeake Bay Critical Area Protection Program and other environmentally sensitive areas; to provide locations for parkland, recreational activities, and access to the water and Bay; to avoid intense development on lands not suitable for development; and to allow, under very stringent requirements, a mixture of residential, recreational and marine commercial activities through the Town's growth allocation method.

3-109 RPC - Residential Planned Community District

The Residential Planned Community District is to provide greater flexibility in the selection of planned community areas, to assure effective control over the location, type and arrangement of uses appropriate to the planned community so as to protect the uses in neighboring districts, to allow the community to enjoy the benefits of open space and innovative spacing of dwellings; and to provide the opportunity for the protection of environmentally-sensitive and critical habitat protection areas.

3-200 LAND USES BY DISTRICT

3-201 Land Use Table

Table 1 lists the different uses and zoning districts in which they are permitted. If a use is not listed or does not fall within any of the general use categories, it is not a permitted use in any district. If a use is specifically listed in Table 1, it takes precedence over general use listings. The letters in Table 1 (beginning on page 3-4) correspond to the following:

P: Permitted Use: Uses designated by the letter “P” shall be permitted subject to all applicable regulations.

C: Conditional Use: Uses designated by the letter “C” shall be permitted subject to certain conditions. The conditions are listed in Part 3 of this Article.

SE: Special Exceptions. The Board of Appeals in accordance with Part 4 of this Article may authorize uses requiring a special exception designated by the letter “SE”.

SC: Special Exception with Conditions. Uses requiring a special exception designated with the letters “SC” may be authorized by the Board of Appeals in accordance with Part 4 of this Article, subject to certain conditions listed in Part 3 of this Article.

3-300 SPECIAL EXCEPTIONS FOR CONDITIONAL AND SPECIAL EXCEPTION USES

3-301 Conditions And Standards For Conditional And Special Exception Uses

The following conditions and specific standards apply to land uses designated C (Conditional) SE (Special Exception) and SC (Special Exception with Conditions) in Table 1. When applying for a zoning and occupancy permit, the applicable conditions shall be satisfied during the period of the use and occupancy.

- (a) Accessory Dwelling. Conditional use in the R-LD, R-MD, R-HD, R-V, C, M, RC and RPC districts and subject to the requirements of the district where located except as herein provided:
- (1) The principal dwelling shall be a single-family detached dwelling and shall be located on a lot of at least 7,500 square feet (sq. ft.) served by public water and sewer.
 - (2) Accessory Dwellings are limited to lots that are owner occupied.
 - (3) Accessory Dwellings are limited to a total of 650 sq. ft. of floor area.
 - (4) All height, area and bulk requirements shall apply to the Accessory Dwelling.
 - (5) The parking requirements of this Ordinance shall apply. Accessory Dwellings will require two (2) off street parking spaces in addition to those required for the principal Dwelling.
 - (6) A site plan is required.
 - (7) Accessory Dwellings must be architecturally compatible with the principal dwelling on the lot in terms of similarity of building materials, roof type, and roofline.
 - (8) Only one (1) accessory apartment will be allowed on a lot.

Table 1

LAND USE CLASSIFICATIONS	P: Permitted C: Conditional Use- permitted use subject to conditions SE: Special Exception SC: Special Exception, subject to conditions								Conditions or Additional Use Regulations
	Zoning Districts								
	R-LD	R-MD	R-HD	R-V	C	M	RC	RPC	
Residential Uses									
1. Single Family Detached	P	P	P	P			P	P	
2. Single Family Attached		P	P	P				P	
3. Townhouse Dwelling			P	P	P	P		P	
4. Multi-family Dwelling			P	P	P	P		P	
5. Dwelling, Accessory	C	C	C	C	C	C	C	C	see 3-300(a)
6. Dwelling Unit in Combination with Commercial Use				C	C	C		C	see 3-300(b)
Institutional, Recreational and Educational Uses									
7. Churches and other places of worship, provided housing for religious personnel shall meet the minimum requirements of Uses 1 through 4 as applicable.	SC	SC		C	P	P		C	see 3-300(c)
8. Public/Private Schools	SC	SC		SC		SC		SC	see 3-300(d)
9. Home Day Care	C	C	SE	C	C	C	SE	C	see 3-300(e)
10. Day Care Center, nursery school, kindergarten or other agency giving care to persons as a commercial	SC	SC		C	P	P		C	see 3-300(f)
11. Professional school, studio for music or art instruction, dancing school, similar.				SC	P	P		SC	see 3-300(g)

Table 1(con't)

LAND USE CLASSIFICATIONS	P: Permitted C: Conditional Use- permitted use subject to conditions SE: Special Exception SC: Special Exception, subject to conditions									
	Use	Zoning Districts							RPC	Conditions or Additional Use Regulations
		R-LD	R-MD	R-HD	R-V	C	M	RC		
Institutional, Recreational and Educational Uses (con't)										
12. Library, museum, community center, adult education center or similar open to the public or connected with a permitted use and not conducted as a private				C	P	P	P	C	see 3-300(h)	
13. Public building or recreational facility owned and operated by Chesapeake Beach or other government agency.	P	P	P	P	P	P	P	P		
14. Private club, lodge, dining club, yacht club not run as a private gainful business.					P	P	SE	SE		
15. Orphanage, nursing home, or other licensed establishment for the care of aged, disabled, or convalescent persons, etc.	SE			C	P	P		C	see 3-300(i)	
16. Group Home	SE	SE	SE	SE				SE		
Office and Commercial Uses										
17. Professional Office in Residence, physician, architect, lawyer, similar				C	P	P		C	see 3-300(j)	
18. Office or clinic for medical or dental examination or treatment of persons as outpatient including laboratories incidental thereto				P	P	P		P		

Table 1(con't)

LAND USE CLASSIFICATIONS	P: Permitted C: Conditional Use- permitted use subject to conditions SE: Special Exception SC: Special Exception, subject to conditions								
	Use	Zoning Districts							Conditions or Additional Use Regulations
		R-LD	R-MD	R-HD	R-V	C	M	RC	
Office and Commercial Uses (con't)									
19. Therapeutic Massage					C	C			see 3-300(k)
20. Offices for business, professional, or governmental purposes				C	P	P		C	see 3-300(l)
21. Artists, photographer's gallery, studio				C	P	P		C	see 3-300(m)
22. Retail establishments carrying one type of interrelated goods such as book store, gift shop, florists shop, etc. -adult bookstore prohibited.				C	P	P		C	see 3-300(n)
23. Retail convenience stores and retail establishments carrying commodities which tend to be purchased on a comparison basis such as food supermarket, department store, discount store, pharmacy, etc.					P	P			
24. Personal services including barbershops, salons, laundry, dry cleaning (receiving stations), travel agency, insurance, real estate, repair shop for shoes, bikes, watches, locks, etc.				C	P	P		C	see 3-300(o)
25. Financial Service, Bank					P	P			
26. Business services, printing, copying, contractors shop, plumbing shop					P	P			
27. Appliance and furniture repair, upholstery					P	P			
28. Restaurant - Class I drive up / drive thru windows at fast food restaurants are prohibited.					P	P			
29. Restaurant- Class II					P	P			
30. Restaurant- Class III					P	P			
31. Tavern, Nightclub					P	P			

Table 1(con't)

LAND USE CLASSIFICATIONS	P: Permitted C: Conditional Use- permitted use subject to conditions SE: Special Exception SC: Special Exception, subject to conditions								Conditions or Additional Use Regulations
	Zoning Districts								
	R-LD	R-MD	R-HD	R-V	C	M	RC	RPC	
Use									
Office and Commercial Uses (con't)									
32. Bed and Breakfast Establishment	SC	C	C	C	C	C		C	see 3-300(p)
33. Rooming , Boarding, Lodging House					C	C			see 3-300(q)
34. Motel, hotel, tourist home					C	C			see 3-300(r)
35. Entertainment and recreation facilities operated as a business within a building with the exception of an adult bar, restaurant, or nightclub					P	P			
36. Outdoor entertainment and recreation facilities operated as a gainful business					P	P			
37. Animal hospital, veterinarian clinic					SC			SC	see 3-300(s)
Automotive and Boat Service Uses									
38. Non-residential parking area located in a residential district		SE	SE	SE		SE		SE	
39. Automotive service station					SC	SC			see 3-300(t)
40. Sale or rental of automobiles						SC			see 3-300(u)
41. Repair garage including paint spraying and body and fender work or car washing facility						SC			see 3-300(v)
42. Marina including fuel service for watercraft, boat storage and repair yard, boat sales and service.						C			see 3-300(w)

Table 1(con't)

LAND USE CLASSIFICATIONS	P: Permitted C: Conditional Use- permitted use subject to conditions SE: Special Exception SC: Special Exception, subject to conditions									
	Use	Zoning Districts							RPC	Conditions or Additional Use Regulations
		R-LD	R-MD	R-HD	R-V	C	M	RC		
Utilities, Communications, Transportation										
43. Transformer station, structure housing switching equipment and regulators, power transmission line right-of-way, radio, television transmitter tower, cellular tower, etc.	SC	SC	SC	SC	SC	SC	SC	SC	see 3-300(x)	
44. Bus station, inter-modal transit center						SE				
Industrial Uses										
45. Light Industrial uses						SE				
46. Water-dependant processing, fishing activities						SE	SE			
47. Warehousing and storage in association with marine commercial activities						SE				
Unclassified Uses										
48. Customary Home Occupation (1 employee)	C	C	C	C	C	C	C	C	see 3-300(y)	
49. Home Occupation (2 employees)	SE	SE	SE	C	C	C	SE	C	see 3-300(z)	
50. Garage, yard, estate sale	C	C	C	C	C	C	C	C	see 3-300(aa)	
51. Carnival or similar transient enterprise					SC	SC			see 3-300(bb)	
52. Temporary building incidental to construction					C	C			see 3-300(cc)	
53. Dwelling for Resident watchman					P	P				

3-301 (con't)

- (b) Dwelling unit in combination with commercial use. Conditional use in the R-V, C, M and RPC districts and subject to the requirements of the district where located except as herein provided:
- (1) Adequate parking shall be provided for both uses.
 - (2) The commercial portion of such a combination use must be fully utilized so as not to reduce the commercial services made available to the community.
 - (3) Commercial development shall be given priority in such combination uses and residential portion must be ancillary.
- (c) Churches and Other Buildings for Religious Assembly. Special Exception with Conditions use in the R-LD, R-MD districts and Conditional use in the R-V and RPC Districts subject to the requirements of the district where located, except as herein provided:
- (1) *Minimum lot area shall be one acre.*
 - (2) Minimum lot width shall be 200 feet.
 - (3) No part of any building shall be located within 50 feet of any adjoining property line in separate ownership.
 - (4) Building coverage shall not exceed 25 percent of the lot
 - (5) Screening and buffers shall be provided where the lot abuts residentially used properties or where the site abuts any residential zoning district.
 - (6) Adequate parking shall be provided on-site.
 - (7) Housing for religious personnel shall meet the minimum requirements of Uses 1 through 4 whichever apply.
- (d) Public and Private School. Special Exception with Conditions use in the R-LD, R-MD, R-V, M and RPC Districts subject to the requirements of the district where located, except as herein provided:
- (1) *Minimum lot area shall be two acres, except in the M district where minimum lot width may be one acre.*
 - (2) Minimum lot width shall be 200 feet.
 - (3) No part of any building shall be located within 50 feet of any adjoining property line in separate ownership.
 - (4) Dormitories or other living accommodations for faculty or students shall meet the minimum requirements of Uses 1 through 4, whichever apply.
- (e) Home Day Care. Conditional use in the R-LD, R-MD, R-V, C, M and RPC Districts subject to the requirements of the district where located, except as herein provided:
- (1) Applicant shall meet the requirements of State and local health departments.
 - (2) All such uses shall be located to permit the safe pickup and delivery of all persons on the site.
 - (3) In the R-LD, R-MD districts, there shall be no exterior evidence, other than a permitted sign not exceeding two (2) sq. ft., to indicate that the principal building is being used for any purpose other than that of a dwelling.
 - (4) The operation shall meet the individual parking requirements of home day care businesses in addition to any residential parking requirements for the dwelling in which the operation is located.

- (f) Day Care Center, nursery school, kindergarten, or other agency giving care to persons as a commercial operation. Special Exception with Conditions use in the R-LD and R-MD districts and Conditional use in the R-V and RPC districts, subject to the requirements of the district where located, except as herein provided:
- (1) The minimum lot area shall be 20,000 sq. ft. plus 2,500 sq. ft. of lot area for each person cared for above ten persons.
 - (2) The minimum lot width shall be 100 feet in the R-LD and R-MD districts.
 - (3) No part of any building shall be located within 30 feet of any adjoining property in residential use.
 - (4) In the R-LD and R-MD districts, the owner or manager shall live on the premises and shall have quarters that are separate and distinct from the facilities used for the operation of the day care center or nursery school.
 - (5) Vegetative screening and buffers shall be provided where the lot abuts residentially used properties.
 - (6) Any outdoor play active recreational area shall be located in the rear yard and its boundary shall be at least 10 feet from the rear lot line and not nearer to any other lot line than the required yard setback.
 - (7) Outdoor play areas shall be sufficiently screens and sound insulated so as to protect the neighborhood from noise and other disturbances. To fulfill this requirement, screening may be located anywhere on the lot as needed.
 - (8) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building façade orientation, building scale and massing, materials, colors, roofs and rooflines.
- (g) Professional school, studio for music or art instruction, dancing school, similar. Special Exception with Conditions use in the R-V and RPC Districts limited to properties with frontage onto MD 261.
- (h) Library, museum, community center, adult education center or similar open to the public or connected with a permitted use and not conducted as a private business. Conditional use in the R-V and RPC Districts subject to the requirements of that district, except as herein provided:
- (1) The minimum lot area shall be 10,000 sq. ft.
 - (2) No part of any building shall be located within 30 feet of any adjoining property in residential use.
 - (3) Vegetative screening and buffers shall be provided all lot lines that abut properties in residential use.
 - (4) No outdoor active recreational area shall be located nearer to any lot line than the required yard setback.
 - (5) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building façade orientation, building scale and massing, materials, colors, roofs and rooflines.
- (i) Orphanage, nursing home, or other licensed establishment for care of aged, disabled, or convalescing persons. Special Exception with Conditions in the R-LD district and Conditional use in the R-V and RPC Districts subject to the requirements of the district where located, except as herein provided:
- (1) The minimum lot area shall be 20,000 sq. ft., plus 3,000 sq. ft. of lot area devoted to the use for each occupant above eight occupants.
 - (2) No part of any building shall be located within 30 feet of any adjoining property in residential use.

- (3) In the R-LD district, the owner or manager shall live on the premises and shall have quarters that are separate and distinct from the facilities used for the operation of the day care center or nursery school.
 - (4) In the R-LD district, that there be no exterior evidence, other than a permitted sign not exceeding 16 sq. ft., to indicate that the building is being used for other than residential purposes.
 - (5) In the R-LD district, total occupancy on the premises shall not exceed four persons, excluding the owner or manager.
 - (6) Vegetative screening and buffers shall be provided all lot lines that abut properties in residential use.
 - (7) No outdoor active recreational area shall be located nearer to any lot line than the required yard setback.
 - (8) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building façade orientation, building scale and massing, materials, colors, roofs and rooflines.
- (j) Professional Office in Residence. Conditional use in the R-V and RPC Districts subject to the requirements of that district, except as herein provided:
- (1) The professional person must reside in the dwelling.
 - (2) There shall be no exterior evidence, other than a permitted sign not exceeding two (2) sq. ft., to indicate that the principal building is being used for any purpose other than that of a dwelling.
 - (3) There shall be no show window or display window.
 - (4) No more than two persons other than the resident professional shall be employed on site.
 - (5) Sufficient off street parking in the side or rear yard shall be provided with the minimum being two spaces per professional plus residential requirements.
 - (6) The total area devoted to the professional office use shall not exceed 40 percent of the square footage of the principal dwelling unit.
 - (7) An accessory building may be used for professional office.
- (k) Therapeutic Massage. Conditional use in the C and M districts subject to the requirements of that district, except as herein provided:
- (1) Massage is incidental to a principal medical or spa use.
 - (2) Massage therapy is conducted by professionals who are licensed to practice massage or by professional physical therapists.
 - (3) Massage therapy does not include any manipulation to induce sexual stimulation and in the context of massage therapy any such act is presumptively considered a danger to public health, safety, and welfare and is cause for revocation of a zoning and occupancy permit.
- (l) Offices for Professional, Business or Governmental Purposes: Conditional use in the R-V district subject to the requirements of that district, except as herein provided:
- (1) The principal building shall be no closer than 20 feet to any lot line that adjoins a property in residential use.
 - (2) Off-street parking shall be provided in the side or rear yard and shall be completely screened from view of adjoining residential properties.
 - (3) To reduce the impact of traffic and parking, the total floor area devoted to the use shall be limited to 6,000 sq. ft. (in addition to any basement or attic areas used solely for storage).

- (4) Vegetative screening and buffers shall be provided along lot lines that abut properties in residential use.
 - (5) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building façade orientation, building scale and massing, materials, colors, roofs and roof lines.
 - (6) Signage shall be limited to one free-standing sign identifying the name and number of the building or premises of no more than two (2) sq. ft. unless the property fronts on more than one street in which case one such sign may be erected on each frontage.
- (m) Artists, Photographer Studios and Galleries: Conditional use in the R-V and RPC Districts subject to the requirements of that district, except as herein provided:
- (1) The owner or manager must reside in the dwelling.
 - (2) There shall be no exterior evidence, other than a permitted sign not exceeding two (2) sq. ft., to indicate that the principal building is being used for any purpose other than that of a dwelling
 - (3) There is no show window or display window.
 - (4) Only two persons other than the resident artist or photographer may be employed on site.
 - (5) Off street parking shall be provided in the side or rear yard.
 - (6) The total area devoted to the studio or gallery space does not exceed 40 percent (40%) of the square footage of the principal dwelling unit.
 - (7) An accessory building may be used for studio or gallery space.
 - (8) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building scale and massing, materials, colors, roofs and rooflines.
- (n) Retail Shops Carrying One Type of Interrelated Goods such as Book Store, Gift Shop Florist Shop, Etc. Conditional use in the R-V and RPC Districts subject to the requirements of that district, except as herein provided
- (1) This use, in the R-V District, shall be limited to properties with frontage onto MD 261.
 - (2) The principal building shall be no closer than 30 feet to any lot line that adjoins a property in residential use.
 - (3) To reduce the impact of traffic and parking, the total floor area devoted to the use shall be limited to 3,000 sq. ft. (in addition to any basement or attic areas used solely for storage).
 - (4) Off-street parking shall be provided in the side or rear yard and shall be completely screened from view of adjoining residential properties.
 - (5) Vegetative screening and buffers shall be provided along lot lines that abut properties in residential use.
 - (6) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building scale and massing, materials, colors, roofs and rooflines.
- (o) Personal Service Shops, such as Salons, Shoe Repair, Etc: Conditional Use in the R-V and RPC Districts subject to the requirements of that district, except as herein provided:
- (1) This use, in the R-V district, shall be limited to properties with frontage onto MD 261.
 - (2) The principal building shall be no closer than 30 feet to any lot line that adjoins a property in residential use.

- (3) To reduce the impact of traffic and parking, the total floor area devoted to the use shall be limited to 3,000 sq. ft. (in addition to any basement or attic areas used solely for storage).
 - (4) Off-street parking shall be provided in the side or rear yard and shall be completely screened from view of adjoining residential properties.
 - (5) Vegetative screening and buffers shall be provided along lot lines that abut properties in residential use.
 - (6) Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building scale and massing, materials, colors, roofs and rooflines.
- (p) Bed and Breakfast. Special Exception with Conditions use in the R-LD district Conditional use in the R-MD, R-V, C, M and RPC Districts subject to the requirements of the district where located except as herein provided:
- (1) An owner or manager lives on the premises.
 - (2) The facility is part of a dwelling unit.
 - (3) No separate kitchens are provided.
 - (4) Meals shall be provided for overnight lodgers only.
 - (5) The facility is operated through a State approved Bed and Breakfast registry.
 - (6) One off-street parking space is provided for each guest room.
- (q) Rooming, Boarding House, Lodging House. Conditional use in the C and M districts and subject to the requirements of the district where located except as herein provided:
- (1) An owner or manager lives on the premises.
 - (2) No separate kitchens are provided.
 - (3) Not more than nine guest shall be accommodated at any one time
 - (4) Not more than three guest rooms shall be permitted.
 - (5) Adequate off- street parking is provided.
- (r) Motel, Hotel, Tourist Home: Conditional use in the C and M districts and subject to the requirements of the district where located except as herein provided:
- (1) The applicant shall site new buildings to ensure that adjacent properties have visual privacy and sunlight as well as protection from the new development's site illumination, noise, and odor, as applicable.
 - (2) The applicant shall design buildings to complement and contribute to a desirable community character in terms of shape and style, rooflines, color, and materials.
 - (3) Accessory uses may include a gift shop, beauty shop, barbershop, restaurant, cocktail lounge/nightclub, auditorium/meeting room facilities, and similar retail stores and commercial establishments.
 - (4) Circulation and parking shall be adequate to fulfill requirements of all proposed uses -- principal and accessory. The Planning Commission may require a traffic analysis provided by the applicant demonstrating adequacy of the system.
 - (5) The applicant shall design and site buildings to screen from public view unsightly elements such as shipping and loading areas, transformers, dumpsters, and meters.
 - (6) The applicant shall design the building roof to screen mechanical equipment from public view and to contribute to an attractive streetscape.
 - (7) The applicant shall develop the public streetscape between the building and the street curb as a safe and convenient pedestrian way with attractive amenities such as paving, lighting, seating, shelter, and landscaping.

- (8) The applicant shall design fences and retaining walls that are consistent in materials and quality to that of the building and the adjacent properties.
 - (9) The applicant shall design and locate signs so that their illumination is directed away from adjacent properties.
 - (10) The applicant shall integrate ground signs into the design of the site and the streetscape.
- (s) Animal Hospital, Veterinarian Clinic. Special Exception with Conditions use in the C and RPC Districts subject to the requirements of that district, except as herein provided:
- (1) Minimum lot area shall be 20,000 sq. ft.
 - (2) All operations in connection with the clinic must be conducted indoors.
 - (3) Vegetative landscaping shall be used along the side lots lines when the site adjoins a residential lot and must include no less that two sets of coniferous plantings with 5-foot separation plus a hedge.
 - (4) No crematorium or incinerator device may be used on the site in conjunction with the clinic operations.
 - (5) The site may not be operated as a kennel though overnight stays by pets receiving medical care may be permitted.
 - (6) No work on large animals (bovine or equine) is to be performed on the premises.
- (t) Automobile Service Stations. A Special Exception with Conditions use in the C and M districts subject to the requirements of that district, except as herein provided:
- (1) All activities, except for those to be performed at the fuel pumps shall be performed within a completely enclosed building.
 - (2) No fuel pump, oil draining pit, or other vehicle appliance for serving automobiles shall be located within 15 feet from a right-of-way.
 - (3) Bulk storage of flammable liquids shall be underground.
 - (4) The entrance and exit of any such establishment shall be at least 50 feet from any residential lot.
 - (5) No storage or stockpiling of tires or any trash shall be permitted.
 - (6) All inoperative vehicles shall be completely screened from view of rights-of-way and adjoining properties.
 - (7) An area, enclosed by a wall or fence, screened from view of adjoining properties and rights-of-way shall be established whenever outdoor storage is required.
 - (8) No fuel pumps, structures or buildings shall be erected within 150 feet of any dwelling.
 - (9) All lights shall be diverted toward the station or downward on the lot.
- (u) Sale or rental of Motor Vehicles. Special Exception with Conditions use in the M district subject to the requirements of that district, except as herein provided:
- (1) Vegetative screening and buffers shall be provided where the lot abuts residentially used properties or where the site abuts the R-SF zoning district.
 - (2) Maintenance shall only be permitted on vehicles offered for sale or rent by business.
 - (3) All lights shall be diverted toward the facility or downward on the lot.
 - (4) The sale or rental of recreational vehicles, motor homes, heavy trucks, or other large vehicles, with the exception of boats, shall not be permitted.
- (v) Repair garage, including paint spraying and body and fender work or car washing facility. Special Exception with Conditions in the M district subject to the requirements of that district, except as herein provided:

- (1) All activities shall be performed within a completely enclosed building.
 - (2) The entrance and exit of any such establishment shall be at least 50 feet from any residential lot.
 - (3) No storage or stockpiling of tires or any trash shall be permitted.
 - (4) All inoperative vehicles shall be completely screened from view of rights-of-way and adjoining properties.
 - (5) An area, enclosed by a wall or fence, screened from view of adjoining properties and rights-of-way shall be established whenever outdoor storage is required.
 - (6) All lights shall be diverted toward the station or downward on the lot.
- (w) Marina. Conditional use in the M district subject to the requirements of that district, except as herein provided:
- (1) The marina shall comply with all Town, State, and Federal codes, regulations, laws, and ordinances.
 - (2) The proposed design shall be satisfactory as regards such safety features as the location of fueling points, fuel storage, the effect on navigation, the possibilities for water pollution, and service by fire hydrants.
 - (3) The projection of docks, wharves, and piers into waterways shall be limited by applicable Town, State and Federal laws.
 - (4) Groins, levees, bulkheads, pilings, breakwaters, and other similar structures shall be erected and maintained in accordance with applicable location and construction standards of the Town, State, and other required regulatory agencies.
 - (5) Adequate sanitary facilities shall be provided. The Planning Commission may specify the number.
 - (6) Each marina shall maintain fire suppression and prevention equipment and facilities and shall conform to the requirements of the State Fire Marshall. Interior roadways shall be of sufficient width and maintenance to accommodate fire and emergency equipment.
 - (7) Containerized trash receptacles shall be required within a reasonable distance of all piers.
- (x) Transformer station, structures housing switching equipment and regulators, tower transmission line rights-of-way, towers, and radio and/or television transmitter tower, cellular tower, etc. Special Exception with Conditions use in the R-LD, R-MD, R-HD, R-V, C, M, RC and RPC Districts subject to the requirements of the district where located except as herein provided:
- (1) In any Residential District, the proposed use at the location selected is necessary for public convenience and service and cannot be supplied with equal public convenience if located elsewhere.
 - (2) In any Residential District, whenever practicable, buildings and structures shall have the exterior appearance of residential structures.
 - (3) In any Residential District, neither public business office nor any storage yard or storage building is operated in connection with it.
 - (4) In the case of radio, cellular, and/or television transmitter towers any such tower shall be located a distance equal to its height plus fifty feet from all lot lines.
 - (5) There shall be no electrical disturbance emanating from any use or lot, which would adversely affect the operation of any equipment on any other lot or premises.
 - (6) Transmission and distribution facilities should be located underground unless cause can be shown why they cannot be placed underground.

(y) Customary Home Occupation. Conditional use in the R-LD, R-MD, R-HD, R-V, C, M, RC and RPC Districts subject to the requirements of the districts where located, except as herein provided:

- (1) The occupation is conducted entirely within the dwelling or accessory building and is clearly secondary to the use of the dwelling for residential purposes.
- (2) The occupation uses no more than 30 percent of the principal dwelling floor area.
- (3) All employed are family members residing in the dwelling, except that one full-time non-resident employee may be on the premises.
- (4) No outside storage of equipment, materials or items to be repaired or sold shall be permitted.
- (5) No article or commodity is offered for sale or is publicly displayed on the premises except those incidental to the services offered.
- (6) No display of products may be shown as to be visible from outside the dwelling and no advertising visible outside the premises shall be permitted, other than the permitted home occupation announcement sign.
- (7) No exterior alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.
- (8) Besides the required parking for the dwelling unit, additional parking located to the side or rear yard shall be provided as follows: 1 space for each non-resident employed on the premises and 3 additional spaces for a physician or dentist.
- (9) A nameplate not larger than 2 sq. ft. attached to the building and illuminated only by indirect lighting is permitted.
- (10) A home occupation shall not be interpreted to include such uses as tourists' homes, animal hospitals, tearooms and restaurants.
- (11) The establishment or operation of a home occupation shall be harmonious with the character of neighboring residential uses and shall not create traffic (pedestrian or vehicular) or parking demands out of character with neighboring properties.
- (12) A zoning permit is obtained.

(z) Home Occupation. Special Exception with Conditions use in the R-LD, R-MD, R-HD, and RC districts and Conditional use in the R-V, C, M and RPC Districts subject to the requirements of the districts where located, except as herein provided:

- (1) The occupation is conducted entirely within the dwelling or accessory building and is clearly secondary to the use of the dwelling for residential purposes.
- (2) The occupation uses no more than 30 percent of the principal dwelling floor area.
- (3) All employed are family members residing in the dwelling, except that no more than two full-time non-resident employees may be on the premises.
- (4) No outside storage of equipment, materials or items to be repaired or sold shall be permitted.
- (5) No article or commodity is offered for sale or is publicly displayed on the premises except those incidental to the services offered.
- (6) No display of products may be shown as to be visible from outside the dwelling and no advertising visible outside the premises shall be permitted, other than the permitted home occupation announcement sign.
- (7) No exterior alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.
- (8) Besides the required parking for the dwelling unit, additional parking located to the side or rear yard shall be provided as follows: 1 space for each non-resident employed on the premises and 3 additional spaces for a physician or dentist.
- (9) A nameplate not larger than 2 sq. ft. attached to the building and illuminated only by indirect lighting is permitted.

- (10) A home occupation shall not be interpreted to include such uses as tourists' homes, animal hospitals, tearooms and restaurants.
 - (11) The establishment or operation of a home occupation shall be harmonious with the character of neighboring residential uses and shall not create traffic (pedestrian or vehicular) or parking demands out of character with neighboring properties.
 - (12) A zoning permit is obtained.
- (aa) Garage Sales, Yard Sales, Estate Sales. Conditional use in the R-LD, R-MD, R-HD, R-V, C, M, RC and RPC Districts subject to the requirements of the district where located, except as herein provided:
- (1) Articles for sale consist of personal possessions of the seller.
 - (2) Such sale is not conducted in the same location more than once a month.
- (bb) Carnival or similar transient enterprise: Special Exception with Conditions use in the C and M districts subject to the requirements of the district where located, except as herein provided:
- (1) The use shall be sponsored by an organization qualified under Chapter 424 of the 1941 Acts of the General Assembly of Maryland (Section 249 of Article 27 of the Annotated Code of Maryland).
 - (2) The use shall not exceed ten (10) days in duration and shall not include any permanent structures.
- (cc) Temporary Structure Incidental to Construction (non-residential). Conditional use in the C and M districts subject to the requirements of the districts where located, except as herein provided:
- (1) Provided that it is removed when construction is finished.
 - (2) The temporary structure is permitted for a period of one year. A one-year extension may be permitted upon application to the Public Works/Zoning Administrator.

3-400 SPECIAL EXCEPTIONS THROUGH THE BOARD OF APPEALS

3-401 Purpose and Intent

There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land. These uses may be allowed to locate within given designated zoning districts under the controls, limitations and regulations of a special exception.

3-402 Authorization

In consideration of an application filed with the Public Works/Zoning Administrator, the Board of Appeals may authorize the establishment of those special uses that are expressly listed in a particular district in Table 1 of this Ordinance.

3-403 Status of Special Exception Uses

- (a) Once a special exception has been approved, any site plan, subdivision plat, building permit, or zoning and occupancy permit hereafter submitted for the development or use of the property in accordance with the special exception shall conform with the approved special exception and no development or use shall be approved by the Public Works/Zoning Administrator in the absence of such conformance.
- (b) Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Ordinance. No use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special exception or a new special exception shall be modified unless an application is made and approved for an amendment to the special exceptions or a new special exception is approved.
- (c) Once a special exception use is approved, the use shall not be considered a nonconforming use, but shall be, without further action, considered a conforming one.

3-404 Standards

The Board of Appeals shall grant a special exception only if it finds, from a preponderance of evidence of record, that any proposed use submitted for a special exception will meet all of the following general standards as well as any specific standards or conditions listed for the proposed use.

- (a) The establishment, maintenance and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.
- (b) The special exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- (c) The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.
- (d) Establishment and operation of the special exception will not adversely impact the capacity and/or safety of the Town infrastructure such as roads, water and sewer, drainage, etc.
- (e) The special exception shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
- (f) The establishment, maintenance and operation of the special exception are consistent with the Town of Chesapeake Beach Comprehensive Plan.

3-405 Burden of Proof

The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

3-406 Conditions and Restrictions

The Board of Appeals, in approving a special exception, may impose such conditions and restrictions upon the proposed use, as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to protect the viability of the implementation of the adopted Chesapeake Beach Comprehensive Plan.

3-407 Application Procedure

- (a) The Board of Appeals shall not grant a special exception unless and until a written application is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
- (b) Applications for a special exception shall be submitted to the Public Works/Zoning Administrator on forms supplied by him. The application shall be completed and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Public Works/Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Board of Appeals.
- (c) The Board of Appeals may request and consider recommendations of the Planning Commission prior to rendering a decision.

(1) Waiver and Special Exception Notifications

The Mayor and Town Council shall be notified of all requests for waivers or special exceptions within seven (7) days of the request.

- (d) An application for a special exception may be made by a property owner, lessee or contract purchaser. A lessee or contract purchaser must file with the application, a copy of the contract or some form of written statement, which indicates endorsement of the application by the property owner.

3-408 Processing and Public Hearing Requirement

- (a) The Board of Appeals shall process all applications for special exception in accordance with the provisions in this section and the provisions of Article 7, Part 4. The Board on the application for a special exception shall make no determination until a public hearing has been held on it.
- (b) Notice shall be given at least thirty (30) days in advance of public hearing. The owner of the property for which special exception is sought, or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which special exception is sought and at the Town Hall, and notice shall be published in a newspaper of general circulation in the Town, at least thirty (30) days prior to the public hearing.

3-409 Termination or Revocation

- (a) Unless a time limit is specified for a special exception, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of one year, the special exception shall automatically terminate without notice. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.
- (b) A special exception shall be revocable on the order of the Board of Appeals at any time because of the failure of the owner or operator of the use covered by the exception to

observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the exception that were designated in issuing the same. Before revoking any special exception, however, the Board of Appeals shall give the holder thereof at least ten (10) days written notice of violation. If within ten (10) days, the exception holder so requests, the Board of Appeals shall hold a hearing on the revocation of the exception, giving the applicant advance written notice of the hearing date.

- (c) Where a special exception has not been established by the issuance of a zoning permit within one year after the date of granting the special exception, the special exception shall expire. However, the Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the granting of the special exception for periods of not longer than six months each, provide that a written request for each extension is filed while the prior grant is still valid.
- (d) The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of the provision of this Ordinance.

3-500 COMMERCIAL REZONING

3-501 Procedures to Maintain a Commercial District Zoning Once Granted

The procedure for maintaining any change of zoning district classification to a Commercial District duly enacted and adopted in accordance with the provisions contained herein, such change having been petitioned by persons other than the Town Council or Planning commission, shall be as follows:

- (a) Within three years of the granting of Commercial District zoning permits for the land so zoned shall be applied for, otherwise the zoning for the Commercial District shall revert automatically to its prior District classification without notice and public hearings.
- (b) Within two years after issuance of zoning permits, construction shall be commenced on the land so zoned, otherwise the zoning for the Commercial District shall revert automatically to its prior district classification without notice and public hearing.
- (c) Within three years of the issuance of zoning permits for the land so zoned, the subject land shall be substantially devoted to such use or uses as may be permitted in the zoning district, otherwise the zoning for the Commercial District shall revert automatically to its prior district classification without notice and public hearing.

4-400 CRITICAL AREA OVERLAY DISTRICT

4-401 Statement of Intent and Purpose

The purpose of the Critical Area District is to implement zoning regulations and measures designed to protect and enhance water quality and habitat resources located within the Town's Critical Area District. The geographic area for which the following District regulations apply shall be as designated on the Town's Critical Area Map.

The intent of the Critical Area District is to provide special regulatory protection for the resources located within the Town's Critical Area District and to foster more sensitive development activity for shoreline areas. Another objective is to minimize adverse impacts to water quality and natural habitats.

4-402 Land Use Management Classifications

- (a) Within the Critical Area District, there shall be three land use management classifications, which shall be as shown on the Town's Critical Area Map:
 - (1) Intensely Developed Areas (IDA's);
 - (2) Limited Development Areas (LDA's); and
 - (3) Resource Conservation Areas (RCA's).
- (b) These land use management classifications correspond to the definitions established in the Chesapeake Bay Critical Area Criteria, as amended, for each area and specifically as identified on the Town's Critical Area Map, adopted as part of the Town's Critical Area Protection Program. Mapped land use management classifications are based on land uses established on or before December 1, 1985, except for areas where the land use classification may be changed to the Growth Allocation (GA) or the Special Growth Allocation (SGA) floating zone District classification in accordance with Article 4, Part 5. The following regulations shall be applied based on the specific land use management classification.

4-403 General Regulations

- (a) Lots of Record

An individual lot or parcel of land located within the Critical Area District may be improved with a single family dwelling and related accessory uses in a Resource Conservation Area (RCA) and otherwise developed in a Limited Development (LDA) and an Intensely Developed Area (IDA) provided they comply with the provisions of Article 5 (Dimensional Requirements) and further provided they comply with the following criteria:

- (1) Any legally buildable single lot or parcel of land legally of record prior to the date of the Town Critical Area Protection Program approval may be improved or developed with a single-family residence.
- (2) Any lot on which development activity has legally progressed to the point of pouring foundation footings or the installation of structural members, prior to adoption of the Town of Chesapeake Beach Critical Area Protection Program,

will be permitted to complete construction as per existing development approvals (e.g., building permit).

- (3) Development may take place on parcels of land of record prior to June 1, 1984, subject to the limitations on permitted uses contained in Article 3, and subject to the provisions of Article 5. However, any development of any such parcels of land must comply "insofar as possible" with the Critical Area Criteria if the development occurs between December 1, 1985 and the time the Town Critical Area Protection Program is approved. Development after the date of the Town Critical Area Protection Program approval on land subdivided prior to June 1, 1984, must comply with the Water Dependent Facility and Habitat Protection Area measures of the Town Critical Area Protection Program and Article 4 Part 4 of this Ordinance.
- (4) Development may take place on lots subdivided and of record between June 1, 1984, and December 1, 1985, for which "interim findings" (defined in Section 8-1813 of the Natural Resources Article, Annotated Code of Maryland) have been made by the Planning and Zoning Commission, the Board of Appeals, or the Town Council.
- (5) Development may take place on lots subdivided and legally of record after December 1, 1985 and prior to the enactment date of the Town Critical Area Protection Program, provided that either the development of the lots shall conform to the criteria or the lots or area of land shall be counted against the growth allocation of Calvert County.

(b) General Use Regulations

- (1) Except as provided below, uses, accessory uses, and special exception uses in the Critical Area District shall be those permitted within the applicable underlying zoning District as shown on the Town's Official Zoning Map.
- (2) Townhouses and other multiple residential units are permitted in the Critical Area District, subject to other provisions of this Ordinance relating to special exceptions, and subject to the following:

The total number of units does not exceed the permitted density in the underlying District, subject to the density provisions in Section 4-410 and Article 3.

- (3) The following uses, which are considered "water-dependent", may be located in the Buffer by special exception:
 - A. Moorings, buoys and slips;
 - B. Docks, piers, launching ramps, access roads and paths;
 - C. Loading and unloading areas;
 - D. Fueling areas;
 - E. Fresh water and ice;
 - F. Phone and electric service;
 - G. Sewage pump-out, dockside toilets/lockers;

- H. Marina office;
 - I. Marina railways and travel lifts;
 - J. Wet covered repair shops; and
 - K. Automated "high and dry" storage facilities.
- (4) New or expanded water-dependent facilities will be allowed in the Buffer area provided they meet the following requirements:
- A. That the project meets a recognized private right or public need;
 - B. That adverse effects on water quality, and fish, plant, and wildlife habitat are minimized; and
 - C. That, in so far as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer.
- (5) In addition to the requirements of subparagraph (4) A-C above, certain water-dependent facilities must also meet the following criteria:
- A. New marinas and other commercial maritime facilities may be permitted by special exception in IDA's and LDA's only, subject to the following:
 - i. New and existing marinas must meet the sanitary requirements of the State Department of Health and Mental Hygiene as required by COMAR 10.17.02; and
 - ii. Discharge of bottom wash from new marinas into tidal waters must be minimized.
 - B. Expansion of existing marinas and other commercial maritime facilities may be permitted by special exception in IDAs, LDAs and RCAs, subject to the following:
 - i. Subject to State sanitary requirements of COMAR 10.17.02 as above; and
 - ii. The expansion of a project in an RCA will be permitted only when it can be demonstrated that the expansion will not adversely affect water quality, and that it will result in an overall net improvement in water quality at or leaving the site of the marina.
 - C. A new or expanded community pier or other noncommercial boat docking or storage facility may be permitted in the Buffer, if the facility:
 - i. is water dependent;
 - ii. meets a recognized private right to public need;

- iii. is community owned and operated for the benefit for the residents of a platted and recorded riparian subdivision;
- iv. is associated with a Residential Development approved by the Planning and Zoning Commission for the Critical Area and is consistent with all criteria and the Town's regulations for the Critical Area;
- v. adverse effects on water quality and fish, plant, and wildlife habitat are minimized;
- vi. insofar as possible, nonwater dependent structures or operations associated with water dependent projects or activities are located outside the Buffer;
- vii. disturbance to the Buffer is the minimum necessary to provide a single point of access to the facility;
- viii. food, fuel, or other goods and services are not offered for sale and adequate and clean sanitary facilities are provided;
- ix. when a community pier "with slips" is provided as part of a new development project, private piers are not permitted within the development project; and
- x. The number of slips permitted at a facility shall be the lesser of the following:

[1] one slip for each fifty (50') feet of shoreline in a subdivision located in an IDA or LDA, and one slip for each three hundred (300') feet of shoreline in a subdivision located in a RCA; or

[2] a density of slips to platted lots or dwellings within a subdivision in the Critical Area in accordance with the following schedule:

<u>Platted lots or dwellings in the Critical Area</u>	<u>Slips</u>
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
More than 300	75 or 15% whichever is greater

- xi. The Planning and Zoning Commission may grant a variance from the provisions of Section 409C2e(3) in accordance with Section 1005 and notification of project applications set forth in COMAR 27.03.01.

4-404 Buffer Regulations

The Buffer shall be maintained, preserved and established as follows:

- (a) Where a tract of land bordering tidal water, wetlands, or tributary streams in the Critical Area District is to be subdivided and a Buffer exemption has not been granted by the Critical Area Commission, a Buffer of at least one hundred (100) feet shall be established in a natural vegetation (except areas of the Buffer that are planted in native vegetation where necessary to protect, stabilize, or enhance the shoreline). No development including septic systems, impervious surfaces, parking areas, roads, or structures are permitted in the Buffer, except as may be necessarily associated with water dependent facilities in accordance with this Ordinance.
- (b) If the lot ownership extends to the water, wetlands, or streambed, then the Buffer shall be included in the required setback distance for building on that lot. The Buffer shall be extended by ten (10) feet for a building restriction line, unless otherwise established on a project-by-project basis. Where the Buffer is to be owned and maintained by a homeowners association or similar appropriate organization, the required setback distance shall be measured from the property line separating that lot from the designated Buffer. This Buffer, when not included in the lots, may be included in the calculating gross density.
- (c) The Buffer shall be extended according to the following rules:

In the case of contiguous steep slopes of greater than fifteen percent (15%) or more incline, the Buffer shall be expanded four (4) feet for every one percent (1%) of slope, or to the top of the slope, whichever is greater. The top of the slope shall be where the grade first falls below 15%.
- (d) All roads, bridges, lots, and other developments that cross or are located adjacent to tributary streams in the Critical Area District shall not be located in the Buffer and shall further:
 - (1) Be designed in a manner to reduce increases in flood frequency and severity.
 - (2) Provide for the retention of natural streambed substrate.
 - (3) Minimize adverse impacts to water quality and stormwater runoff.
 - (4) Retain existing tree canopy in the Buffer adjacent to tributary streams so as to maintain stream water temperature with normal variations.
- (e) No natural vegetation shall be removed nor shall the slope of the land surface be altered in the Buffer, (including clearing of existing natural vegetation to create new agricultural lands), except as follows:
 - (1) Selective commercial harvesting of trees is permitted in accordance with an approved Buffer Management Plan submitted to and reviewed by the Maryland Forest, Park and Wildlife Service;
 - (2) Commercial harvesting may occur to the edge of intermittent streams and to within fifty (50) feet of the landward edge of the Mean High Water Line and tidal wetlands, when the harvesting involves selective cutting of trees or clear cutting of Loblolly Pine and Tulip Poplar;
 - (3) Limited cutting or clearing of trees is permitted for the following purposes:

- A. For personal use, providing that Buffer functions are not impaired and all trees are replaced on an equal basis;
 - B. To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or streambank;
 - C. In conjunction with horticultural practices used to maintain the health of vegetation;
 - D. To provide access to private piers;
 - E. To install or construct an approved shore erosion protection device or measure; or
 - F. To protect forests from extensive pest or disease infestation or threat from fires.
- (f) **(Revised 12/6/06)** Mitigation shall be provided for all disturbance within the 100-foot Buffer. For mitigation requirements in Buffer Exemption Areas, see Section 4-407. Mitigation for disturbance within the 100-foot Buffer outside of Buffer Exemption Areas shall be implemented as follows.
- (1) Mitigation for disturbance within the Buffer associated with a development activity for which a variance is approved by the Board of Appeals shall be provided for the area disturbed at three-to-one.
 - (2) Mitigation for disturbance within the Buffer associated with the construction of a water-dependent facility shall be provided for the area disturbed at two-to-one.
 - (3) Mitigation for disturbance within the Buffer associated with the construction of a shore erosion control measure shall be provided for the area of natural vegetation disturbed at one-to-one. If no natural vegetation is disturbed or removed, mitigation is not required.
 - (4) Mitigation for disturbance within the Buffer associated with the construction of facilities for public access to the water (i.e. walkways) shall be provided for the area disturbed at two-to-one.

4-405 Non-tidal Wetlands Regulations

All development and redevelopment in the Critical Area District must meet the following criteria with respect to all non-tidal wetlands:

- (a) The developer must identify all non-tidal wetlands on the site.
- (b) A minimum twenty-five (25) foot buffer must be maintained around all non-tidal wetlands. Development activities or other activities which may disturb the wetlands or wildlife contained therein, shall be prohibited unless it can be shown that these activities will not adversely affect the wetland. (This requirement does not apply to the grazing of livestock in non-tidal wetlands.)
- (c) Development activities or other land disturbances in the wetland drainage area must be designed to minimize alterations to the surface or subsurface flow of water into and from

the wetland and shall not cause impairment of the water quality of the plant and wildlife and habitat values of the wetland.

- (d) If the proposed development activity is water-dependent or of substantial economic benefit and will cause unavoidable and necessary impacts to the wetlands, then a mitigation plan must be prepared by the developer. Activities requiring a mitigation plan include, but are not limited to, development activities, permitted tree-cutting operations and permitted agricultural activities. The mitigation plan must meet the following requirements:
- (1) The developer must submit a Non-Tidal Wetlands Mitigation Plan.
 - (2) The mitigation plan must specify measures that will provide water quality benefits and plant and wildlife habitat equivalents to the wetland destroyed or altered and mitigation shall be accomplished, to the extent possible, on site or near the affected wetland.
 - (3) For all non-agricultural activities, comments must be obtained from the Maryland Department of Natural Resources, and, where appropriate, the Maryland Department of the Environment, the Department of Agriculture, the Soil Conservation Service and the U.S. Fish and Wildlife Service.
 - (4) For agricultural operations, the Soil Conservation District and the Maryland Department of Natural Resources must be contacted to determine whether mitigation plans are sufficient to accomplish the objectives stated above. Agricultural drainage operations conducted pursuant to Agricultural Article 8-603, Annotated Code of Maryland, shall provide mitigation consistent with regulations developed pursuant to that Article.
 - (5) Copies of all permits from the U.S. Army Corps of Engineers and the State of Maryland must be submitted to the Town prior to project approval.
 - (6) A cost estimate must be submitted with the mitigation plan.
 - (7) The developer will provide a surety or bond in the amount of one hundred twenty percent (120%) of the cost estimate to ensure that the plan is implemented.

4-406 Rare Species and Habitat Protection Regulations

All development and redevelopment in the Critical Area District must meet the following criteria with respect to Rare Species and Habitat Protection Areas:

- (a) All development and redevelopment in the Critical Area District shall be subject to the Rare Species Protection Plan and the Plant and Wildlife Habitat Protection Plan prescribed in the Town Critical Area Protection Program.
- (b) The development and redevelopment shall be designed to assure those plant and wildlife areas identified as Habitat Protection Areas are afforded protection as prescribed in the criteria and guidelines in the Rare Species Protection Plan and the Habitat Protection Program.
- (c) If the proposed development activity will occur within or adjacent to Rare Species Habitat Protection Areas, the developer must contact the Maryland Natural Heritage Program for assistance in establishing species/site specific protection measures. The following requirements must be met:

- (1) The developer shall designate protection areas around the essential habitat of the Rare Species. Development activities or other disturbances shall be prohibited in the protection area, unless it can be shown that these activities or disturbances will not have or cause adverse impact on the habitat. The protection area designation will be made with input from the Maryland Natural Heritage Program and the Maryland Forest, Park and Wildlife Service.
 - (2) The developer shall implement design strategies that work to protect the Rare Species and essential habitat. These strategies should include (but are not limited to) restrictions on siting of structures, use of cluster design, establishment of undisturbed open space areas, restrictive covenants, and restrictions on noise levels and timing of construction activities.
- (d) With respect to all Habitat Protection Areas, the following requirements must be met:
- (1) The developer must identify areas of riparian habitat and large forested areas.
 - (2) A trained professional experienced in ornithology and standardized biological survey techniques must determine the presence of interior dwelling bird habitat, unless the Maryland Forest, Park and Wildlife Service has already determined that such habitat is not present on the property. Survey results must be reviewed and approved by the Maryland Forest, Park and Wildlife Service.
 - (3) A plan must be developed to insure that riparian areas and large forested areas supporting interior dwelling species are protected and conserved. The objective of the plan must be to protect wildlife that inhabit or use these areas. The developer must submit a plan prepared in conjunction with the Maryland Forest, Park and Wildlife Service and technical assistance from the Bay Watershed Forester. The plan should include such protective measures as:
 - A. Cluster development disturbance to the periphery of the site;
 - B. Retaining the continuous cover of canopy and understory trees;
 - C. Minimizing small clearings and expansion of forest edge habitat;
 - D. Retaining standing dead trees (snags);
 - E. Minimizing disturbance during the May-June breeding season.
- (e) With respect to Habitat Protection Areas, the following criteria apply:
- (1) Roads, bridges, and utilities servicing lots shall be located to avoid disturbances to Habitat Protection Areas. When no alternative exists and such infrastructure must cross or be located in Habitat Protection Areas, the applicant shall demonstrate how impacts to habitats have been minimized and that no feasible alternative location of such infrastructure exists.
 - (2) Lots and open space areas in a subdivision shall incorporate a wildlife corridor system designed to provide for maintenance of existing wildlife and plant habitats and continuity with those wildlife and plant habitats on adjacent properties. Existing wildlife corridors shall be identified on proposed development plans. When wildlife corridors exist or are proposed they shall include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the property.

- (3) Dredged spoil from water-dependent facilities shall not be placed in Habitat Protection Areas, except for:
 - A. Backfill for permitted shore erosion protection measures;
 - B. Use of spoils in approved vegetated shore erosion projects;
 - C. Placement of spoils on previously approved channel maintenance spoil disposal areas; and
 - D. Beach nourishment.
- (4) Commercial or non-commercial tree cutting or clearing of existing natural vegetation in the Buffer is not permitted except as provided in Subsection 4-404(e)(1) hereof.
- (5) Agricultural activities, including the grazing of livestock, shall not disturb Habitat Protection Areas.

4-407 General Development Standards

- (a) Development Standards in Buffer Exemption Area
 - (1) A Buffer Exemption Area means that area of the Buffer for which the Town has requested and the Critical Area Commission has approved an exemption from the requirements of the Buffer.
 - (2) Water polluting activities including, but not limited to, storage of vehicles, fuel, or chemicals shall be prohibited in the Buffer Exemption Areas.
 - (3) All uses shall be subject to the provisions established in other sections of this Ordinance. Development or redevelopment in a Buffer Exemption Area shall be subject to all of the criteria applicable to the underlying zoning District and shall be further subject to all of the criteria applicable to the governing land use classification. Permitted uses shall also be subject to the following:
 - A. Shore Erosion Protection Measures shall be provided in accordance with the criteria set forth in the Town Critical Area Protection Program.
 - B. Cutting or clearing of trees or removal of vegetation is allowed in the Buffer Exemption Area for the following purposes only:
 - i. For personal use providing that Buffer functions are not impaired and trees cut are replaced;
 - ii. To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or streambank;
 - iii. In conjunction with horticultural practices used to maintain the health of individual trees;
 - iv. To provide access to private piers;

- v. To install or construct an approved shore erosion protection device or measure;
 - vi. To protect trees from extensive pest or disease infestation; and
 - vii. To permit the development allowed above to be constructed or installed.
- C. The expansion or redevelopment of existing structures in the Buffer Exemption Area may not increase impervious surfaces shoreward of the existing structure and shall not result in greater than a twenty-five percent (25%) increase in the total site area in impervious surface as existed at the time of adoption of the Town's Critical Area Protection Program. Offsetting of such increased impervious surfaces, as described below, shall be required.
- D. When a structure within the Buffer Exemption Area is removed or destroyed, it may be replaced, insofar as possible, no closer than one hundred (100) feet from the edge of tidal waters, tidal wetlands, or tributary streams. In such cases where a setback line exists as defined by structures on adjacent lots or parcels, the structure may not be replaced shoreward of that line. Any impervious surfaces created greater in extent to the pre-existing impervious surfaces within the Buffer Exemption Area shall be offset as described below.
- E. New development in the Buffer Exemption Area shall minimize the shoreward extent of impervious surfaces insofar as possible taking into consideration existing Town yard setback requirements and other such factors. In no case may such impervious surfaces be extended shoreward of any setback line as defined by existing structures on adjacent lots or parcels.
- F. Definitions pertaining to implementation of Buffer Exemption Area provisions: **(Revised 12/6/06)**
- i. *Development Activity* means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational or transportation facilities or structures by the proposed project. Development activities include, among other things, structures, roads, parking areas and other impervious surfaces, mining and related facilities, clearing, grading, and septic systems. For purposes of implementing these provisions, development activity does not include subdivision.
 - ii. *New Development* means a development activity that takes place on a property with pre-development imperviousness less than 15 percent as of March 15, 2003.
 - iii. *Redevelopment* means a development activity that takes place on a property with pre-development imperviousness greater than 15 percent as of March 15, 2003.
- G. Mitigation for Area of Disturbance for Single-Family Residential Development **(Revised 12/6/06)**

- i. Mitigation for the area of disturbance in the Buffer Exemption Area shall be provided by planting an area of natural forest vegetation twice the size of the area of disturbance of the single-family residential development activity or redevelopment activity within the Buffer Exemption Area. Previously existing and legal development on the property that is not impacted by the proposed development or redevelopment shall not be considered as part of the area of disturbance.
- ii. The mitigation shall be planted on-site in the Buffer or off-site in the Buffer or Buffer Exemption Area at another location approved by the Planning and Zoning Commission.
- iii. Table 4 lists the basis for determining the amount of mitigation required for selected development activities. This chart is for general guidance only and the actual amount of development mitigation required is determined on a case-by-case basis.

Table 4

**Mitigation Requirements for Single-Family Residential Development
Within the Buffer Exemption Area (BEA)**

Development Activity	Amount of Mitigation Based on
Build a new house, replace a house	Sq. ft. of development activity
Build an addition	Sq. ft. of development activity
Add an additional floor on existing building footprint	NA
Construct a new accessory structure	Sq. ft. of development activity
Replace or build a new deck	Sq. ft. of development activity
Build a new patio, swimming pool	Sq. ft. of development activity
Add an off-street parking space	Sq. ft. of development activity
Construct a fence	NA
Build a retaining wall	Sq. ft. of development activity
Individual tree-cutting	2 trees planted for every 1 removed
Construct a pathway	Sq. ft. of development activity

Notes:

Sq. ft. = square footage. Mitigation requirements for single-family residential development within the 100-foot Buffer on non BEA properties are based on limits of disturbance of development activity and requires a variance from the Board of Appeals. Mitigation requirements for Single-Family residential development within the Critical Area, but not in a BEA or 100-foot Buffer, are based upon the extent of the existing forest and developed woodland cover and proposed forest clearing.

H. Mitigation Requirements for All Other Types of Development

All new development or redevelopment other than single-family residential in the Buffer Exemption Area shall be required to offset for such development by providing the following two forms of mitigation: planting a buffer yard as specified in paragraph i. below and mitigating for the area of disturbance as set forth below in paragraph ii:

i. Buffer Yard

- a. On new development sites, a buffer yard 20 feet wide shall be required on the project site between the development and the water's edge or landward edge of revetment, unless a variance is obtained from the Board of Appeals.

On redevelopment sites, a buffer yard 15 feet wide shall be required on the project site between the development activity and the water's edge or landward edge of revetment, unless a variance is obtained from the Board of Appeals. The buffer yard shall be at least 15 feet wide over at least 75 percent of its length.

- b. The buffer yard shall be densely planted with native species such that full ground cover is achieved using guidance on plant materials provided by the Town Zoning Administrator. The buffer yard shall minimally include, or a similar combination thereof, the following planting requirements per 100 linear feet of buffer planting strip: 4 native species canopy trees, ten native species understory trees or large shrubs, 25 native species small shrubs, and a sufficient number of native species herbaceous plants and grasses to provide complete ground cover.
- c. On redevelopment sites, if existing structures or those rebuilt on an existing footprint limit the area available for planting, then appropriate modifications to the width of the planted buffer yard may be made on a case-by-case basis, but the area of buffer yard which would have been required to be planted under this section shall be included in the area proposed as an offset or for which fees-in-lieu are proposed to be paid.
- d. Reasonable walkway access to the water's edge through the buffer yard shall be permitted.
- e. For properties in marina use, the 15-foot buffer yard is required only along 75 percent of the shoreline frontage.
- f. The landscaping requirements of this Ordinance may be achieved through planting in the buffer yard where such planting reasonably achieves the stated purposes of the landscaping requirements.
- g. On redevelopment sites, a 15-foot wide buffer yard that is established where previously the area was a developed impervious area is eligible to be counted toward meeting the two-to-one mitigation for area of disturbance specified

in Section ii, as long as the square footage of the buffer yard is at least 450 square feet.

- h. A buffer yard is eligible to be counted toward meeting the buffer yard planting mitigation requirements of this Section even if the buffer yard as proposed converts pervious non-native planted areas (such as lawns or stone shoreline protection) to the planting requirements of the buffer yard.
 - i. Should the applicant provide a buffer yard meeting required planting specifications but wider than the required 20 feet for new development sites and 15 feet, for redevelopment sites, the area of planting exceeding any on-site mitigation requirements, shall be eligible for a mitigation credit that may be sold, should the Town adopt an ordinance allowing mitigation banking.
 - j. The mitigation area shall include informational or educational signage indicating that the area is a protected area for water quality and habitat conservation.
- ii. Mitigation for Area of Disturbance for All Other Development Types
- a. Mitigation for the area of disturbance in the Buffer Exemption Area shall be provided by planting an area of natural forest vegetation twice the size of the area of disturbance of the development activity or redevelopment activity within the Buffer Exemption Area. Previously existing and legal development on the property that is not impacted by the proposed development or redevelopment shall not be considered as part of the area of disturbance.
 - b. The mitigation area shall include informational or educational signage indicating that the area is a protected area for water quality and habitat conservation.
 - c. The mitigation shall be planted on-site in the Buffer or off-site in the Buffer or Buffer Exemption Area at another location approved by the Planning and Zoning Commission.
 - d. Table 5 lists the amount of mitigation required for selected development activities. This chart is for general guidance only and the actual amount of development mitigation required is determined on a case-by-case basis.

Table 5

Mitigation Requirements for All Other Development Types and Activities

Within the Buffer Exemption Area (BEA)

Development Activity	Amount of Mitigation Based on
Build a new structure, replace a structure	Sq. ft. of development activity
Build an addition	Sq. ft. of development activity
Add an additional floor on existing building footprint	NA
Construct a new accessory structure	Sq. ft. of development activity
Replace or build a new deck	Sq. ft. of development activity
Build a new patio	Sq. ft. of development activity
Expand the parking area	Sq. ft. of development activity
Construct a fence	NA
Build a retaining wall	Sq. ft. of development activity
Individual tree-cutting	2 trees planted for every 1 removed
Construct a pathway	Sq. ft. of development activity

Notes:

All non-single family development in the BEA must provide a bufferyard in addition to mitigation required by the development activity. An applicant must obtain a variance when proposing a non-single-family residential development activity that is not within the BEA but within the Critical Area or 100-foot Buffer. The applicant must meet the standards found in Section 8-206 of the zoning ordinance in order for the Board of Appeals to issue a variance.

I. Offsets.

- a) Applicants who cannot fully comply with the planting requirements in Sections G or H above, may use offsets to meet a portion of the mitigation requirement. Offsets can include the removal of an equivalent area of existing impervious surfaces in the Buffer or Buffer Exemption Area, the construction of Best Management Practices for stormwater in excess of those required, wetland creation or restoration, or other measures that improve water quality or habitat.

J. Fees-in-Lieu of Planting

- a) Applicants who cannot comply with the planting or offset requirements shall pay into a fee-in-lieu program.
- b) Fees-in-lieu shall be collected at the rate per square foot of required mitigation that cannot be satisfied through planting or offsets:
 - i. For private development projects, the rate shall be \$1.25 per square foot.

- ii. For public sector development projects, the rate shall be \$2.50 per square foot.
 - iii. Both rates are effective until two years have elapsed from the date of adoption of this amendment. At which time the rates shall be re-evaluated and revised as needed to ensure that funds collected are sufficient to cover the cost of administering the mitigation program but do not exceed the costs of administering the mitigation program. The Town Council in consultation with the Critical Area Commission shall reassess the rate every two years thereafter as needed.
- K. Any required on-site or off-site buffer yard mitigation area, limits of disturbance mitigation area, or offset area or structure must be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of Calvert County.
- L. Alternative provisions for meeting the mitigation requirements may be used, provided the Planning and Zoning Commission and the Critical Area Commission approve them and find that they meet the goals of the Critical Area regulations. **(Revised 12/6/06)**

4-408 Woodland Reforestation and Afforestation Standards **(Revised 12/6/06)**

Where reforestation or afforestation is required, the following requirements must be met:

- (a) If a forest is to be developed, a site-specific field investigation shall be conducted to determine important sensitive species present and to make sure that appropriate protection measures are incorporated into the development plan. The Zoning Administrator may solicit specific recommendation from the Department of Natural Resources based on an evaluation of the site and the proposed development. In general, the following measures are recommended:
 - i. Minimize forest and woodlands disturbance from May through August of each year;
 - ii. Focus all development on the periphery of the forest or woodlands;
 - iii. Retain the forest canopy as well as shrub understory;
 - iv. Retain snag and mature seed trees as dens for woodpeckers and as nests for bald eagles;
 - v. Discourage the creation of small clearings and expansion of forest edge habitats; and
 - vi. Encourage re-establishment of native forests and woodlands. **(Revised 12/6/06)**
- (b) Planting Plans, Bonds and Inspections - A planting plan shall be submitted by the developer first to the local office of the Maryland State Bay Watershed Forester and after review and comment by the Maryland State Bay Watershed Forester, to the Zoning Administrator for approval. The planting plan shall be prepared by a licensed, professional forester, landscape architect, or an experienced landscape designer. The planting plan must be prepared in coordination with the approved site plan or tentative or preliminary and final subdivision plat and shall show:
 - (1) The site plan, building outlines (remaining and proposed), walls, fences, parking spaces, loading spaces, driveways, walks, storage areas, public rights-of-way, easements, and the general location of structures and uses of abutting properties;

- (2) Existing and proposed grades;
 - (3) Existing vegetative cover to be retained, and the location, general size and type of such vegetation;
 - (4) The methods for protecting plant materials after construction;
 - (5) A planting plan and schedule, listing plants to be used (giving their botanical and common names), size at time of planting, and quality of each;
 - (6) An indication of whether plants are balled and burlapped, container grown, or bare root; and
 - (7) An indication of the spacing and location of all proposed trees, shrubs and ground covers.
 - (8) Whether existing vegetation is to be used to meet the requirements contained herein, provided, however, that if existing vegetation is or will be inadequate to meet the standards set herein, a planting plan meeting all of the requirements herein must be submitted.
- (c) Planting Schedule, Forfeiture of Bonds, Inspections -
- (1) Although plant types should be chosen from the recommended plant list available from the Maryland State Bay Watershed Forester, plant types that vary from this list may be substituted with the approval of the local office of the Maryland State Bay Watershed Forester for suitability in regard to their eventual size and spread, susceptibility to diseases and pests, and adaptability to existing soil and climate conditions.
 - (2) All planting should be done in the months of March and April of each year. For the first two (2) years, steps should be taken to control competing vegetation. Technical planting assistance from the local office of the Maryland State Bay Watershed Forester is highly recommended.
 - (3) The planting plan shall be accompanied by a cost estimate of plant materials, labor and maintenance for all afforestation and reforestation. Upon approval of the plan and cost estimate, the developer shall provide a performance bond or other approved surety executed by the developer in the amount of one hundred twenty percent (120%) of the approved cost estimate.
 - (4) If the requirements set forth in the approved planting plan are not met within two (2) years after the first spring planting date following approval of the planting plan, the surety shall be forfeited (or if a bond or surety has not been posted, payment in full of the cost estimate to the Town shall be ordered). The funds so received shall be used by the Town to defray the cost of providing the approved afforestation or reforestation for the property.
 - (5) If the foregoing costs exceed the amount of the performance bond or other approved surety, the excess shall be a continuing obligation of the developer.
 - (6) All performance bonds or other approved surety will be held for a period of one (1) year after installation of the planting, to assure the proper maintenance and growth. Failure to maintain the planting or to replace the dead portions of any

plantings shall result in a forfeiture of the performance bond or other approved surety to the extent necessary to replace the dead plant materials.

- (7) The Zoning Administrator or his designee may from time to time release those portions of the performance bond or other approved surety which may be appropriate.
- (8) All plantings shall be inspected by the Zoning Administrator or the local office of the Maryland State Bay Watershed Forester upon request by the developer, and shall be approved according to the following standards:
 - A. The planting shall adhere to the approved plan. Substitutions or revisions may be made with the approval of the Zoning Administrator.
 - B. All plants shall be protected from vehicular encroachment by wheelstops, curbs or other barriers unless distance provides adequate protection.
 - C. No planting shall result in vegetative growth exceeding thirty-six (36) inches in height within thirty (30) feet of any street intersection or otherwise obstruct sightlines for oncoming traffic.

4-409 Agricultural, Soil Conservation and Water Quality Standards

The following regulations apply to all existing and proposed agricultural uses in the Critical Area District:

- (a) Agricultural activities are permitted in the Buffer, if as a minimum Best Management Practice, a twenty-five (25) foot vegetated filter strip measured landward from the Mean High Water Line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established, and further provided that:
 - (1) The filter strip shall be composed of either trees with a dense ground cover, or a thick sod of grass, and shall be managed to provide water quality benefits and habitat protection. Noxious weeds, including Johnson grass, which occur in the filter strip, may be controlled by authorized means;
 - (2) The filter strip shall be expanded by a distance of four (4) feet for every one percent (1%) of slope, for slopes greater than six percent (6%).
 - (3) The twenty-five (25) foot vegetated filter strip shall be maintained until such time as the landowner is implementing, under a Soil Conservation District approved Soil Conservation and Water Quality Plan, a program of Best Management Practices for the specific purposes of improving water quality and protecting plant and wildlife habitat; and provided that the portion of the Soil Conservation and Water Quality Plan being implemented achieves the water quality and habitat protection objectives of the twenty-five (25) foot vegetated filter strip;
 - (4) The Best Management Practices shall include a requirement for the implementation of a grassland and manure management program, where appropriate, and that the feeding or watering of livestock, may not be permitted within fifty (50) feet of the Mean High Water Line of tidal water and tributary streams, or from the edge of tidal wetlands, whichever is further inland;

- (5) Clearing of existing natural vegetation in the Buffer is not allowed; and
 - (6) Farming activities including the grazing of livestock, do not disturb stream banks, tidal shorelines or other Habitat Protection Areas.
- (b) The diking, drainage or filtering of any palustrine non-tidal wetlands, which have a seasonally flooded or wetter water regime shall not be permitted for the creation of new agricultural lands unless a mitigation plan is submitted to the local Soil Conservation District by the landowner, and the local Soil Conservation District, with the assistance of the Department of Natural Resources, has determined that the mitigation plan is sufficient to accomplish the Critical Area objectives.
 - (c) The clearing of forests or woodlands on soils with a slope of greater than fifteen percent (15%), or on soils with a "K" value greater than thirty-five (35) and a slope greater than five percent (5%) shall not be permitted to establish new agricultural lands.
- (d) A Forest Management Plan will be required for all timber harvesting occurring in the Critical Area in a one year interval, and affecting one or more acres of forest or developed woodlands.**
- (e) All farms in the Critical Area District must have in place and be implementing an up-to-date Soil Conservation and Water Quality Plan to be prepared by the local Soil Conservation District. The Plan must include a grassland and manure management program, where appropriate.
 - (f) Until such time as the land owner is implementing BMP's under an approved Soil Conservation and Water Quality Plan, land owners are encouraged to use the following BMP's:
 - (1) Proper nutrient application rates;
 - (2) Appropriate timing of nutrient application;
 - (3) Appropriate method of nutrient application;
 - (4) Reduced tillage practices;
 - (5) Crop rotation; and
 - (6) Cover Crops.

4-410 District Regulations

- (a) Intensely Developed Areas
 - (1) Permitted Uses
 - A. Residential development - appropriate to the underlying zoning District;
 - B. Commercial use appropriate to the underlying zoning District;

- C. Industrial use appropriate to the underlying zoning District;
- D. General business appropriate to the underlying zoning District;
- E. Educational facilities; and
- F. Recreational facilities.

(2) Special Exceptions

- A. Water-dependent activities;
- B. Transportation facilities;
- C. Utility lines;
- D. Bridges.

(3) Variances

Any development which does not meet the mitigating and development requirements in the IDA regulations; however, may meet the requirements for variance application as referenced in Article 7 Part 6.

(4) Density Provisions

Density in the Intensely Developed Areas shall be governed by the densities established in the underlying zoning district.

(5) Development Standards in Intensely Developed Areas (IDA's).

All uses shall be subject to the following development standards in addition to the regulations established in other sections of this Ordinance. Development and redevelopment in those areas designated IDA shall be subject to the following standards: (**Amended 8/21/06**)

- A. All properties for which development activities are proposed, and which require subdivision approval and/or zoning permit review and approval, shall identify environmental or natural features on that portion of the property within the Critical Area District;
- B. Development and redevelopment in an IDA shall be subject to the habitat protection areas provisions of the Town Critical Area Program;
- C. Development and redevelopment in an IDA shall be required to identify stormwater management practices, in accordance with the best management practice (BMP) guidelines in of the Town Critical Area Protection Program, which achieve the following standards:
 - i. A ten percent (10%) reduction of pre-development pollutant loadings (see Stormwater Management Ordinance for computation methodology);

- ii. Limitations on stormwater runoff to a lower volume or rate than would have resulted predevelopment from a ten (10) year storm.
 - iii. In the event that the stormwater management practices do not achieve the ten percent (10%) reduction in predevelopment pollutant loadings, then offsets shall be provided. Offsets may be either on site or off site, provided they meet the requirements of this Ordinance and the Stormwater Management Ordinance.
- D. To the extent practicable, development and redevelopment in an IDA shall delineate those permeable areas of the property that are to be maintained or permanently established in vegetation. Appropriate plantings include:
- i. Buffer zones downstream of highways and industries;
 - ii. Grassed waterways;
 - iii. Filter strips and seepage areas;
 - iv. Wetland plants; and
 - v. Drainageways and "nutrient sinks".

Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the property are impracticable;

- E. A minimum one hundred (100) foot Buffer shall be established around tributary streams, within which a minimum twenty-five (25) foot buffer shall be established around all non-tidal wetlands as identified in the Town Critical Area Protection Program. The Buffer shall include or shall be expanded to include all sensitive areas, which consist of hydric soils, steep slopes, and highly erodible soils.
- F. Development and redevelopment in an IDA shall install non-structural shore erosion control measures where feasible and appropriate on portions of the property proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where shore erosion control cannot be accomplished by non-structural measures, the proposed development must construct appropriate structural measures to control shoreline erosion on portions of the property proposed for development and near such portions if the shore erosion threatens the proposed development portion. The decision as to structural versus non-structural shore erosion control must be made on a project by project basis and comments must be obtained from the State Department of Natural Resources and the Army Corps of Engineers based on application by the developer in accordance with Article 6 of this Ordinance.
- G. To the extent practicable, development and redevelopment in an IDA shall use cluster development to reduce impervious surfaces and maximize areas of natural vegetation.

b) Limited Development Areas

- (1) Permitted Uses
 - A. Residential development appropriate to zoning District, not to exceed four (4) dwelling units per acre;
 - B. General light commercial uses providing fifty percent (50%) open space;
 - C. Recreational facilities;
 - D. Educational facilities or business uses providing fifty percent (50%) open space;
 - E. Farming and agricultural uses;
 - F. Forestry uses.
- (2) The total acreage in forest coverage within the Town in the Critical Area shall be maintained or preferably increased;
- (3) All forests that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis except as provided for in Section 4-411 E ii b); and
- (4) Developed woodland vegetation shall be conserved to the greatest extent practicable.
- (5) Special exceptions
 - A. Water-dependent facilities;
 - B. Business or commercial use with less than fifty percent (50%) open space;
 - C. Expanded growth of IDA land uses and density, subject to, however, the provisions of Article 4 Part 5.
- (6) Variances

Any Development which does not meet the mitigating and development requirements in the LDA regulations; however, may meet the requirements for variance application as referenced in Article 7 Part 6.
- (7) Density Provisions

Density and minimum lot sizes in a Limited Development Area (LDA) shall be governed by the densities within the applicable underlying zoning Districts. However, in underlying zoning Districts that permit residential use, density in the LDA's shall not exceed four (4) dwelling units per acre. Determination of density shall be based on the gross area of the property prior to development.
- (8) Development Standards in Limited Development Areas (LDA's).

All uses shall be subject to the following development standards in addition to the regulations established in other sections of this Ordinance. Development and redevelopment in those areas designated LDA shall be subject to the following standards: **(Amended 8/21/06)**

- A. All properties for which development activities are proposed, and which require subdivision approval and/or building permit review and approval, shall identify environmental or natural features on that portion of the property within the Critical Area District;
- B. Development and redevelopment in LDA shall be subject to the habitat protection areas provisions of the Town Critical Area Protection Program:
- C. Roads, bridges, and utilities serving the development or redevelopment property shall be located to avoid disturbances to Habitat Protection Areas. When no alternative exists and such infrastructure must cross or be located in Habitat Protection Areas, the developer shall demonstrate how impacts to habitats have been minimized and that no feasible alternative location of such infrastructure exists;
- D. All development and redevelopment activities which cross, or are located adjacent to, tributary streams in the Critical Area District shall:
 - i. Not be located in the Buffer;
 - ii. Be designed in a manner to reduce increases in flood frequency and severity;
 - iii. Provide for the retention of natural streambed substrate;
 - iv. Minimize adverse impacts to water quality and storm water runoff; and
 - v. Retain the existing tree canopy so as to maintain stream water temperature with normal variations.
- E. All development and redevelopment in an LDA shall incorporate a wildlife corridor system designed to provide for the maintenance of the existing wildlife and plant habitats on the property and maintain continuity with those on the adjacent properties. When wildlife corridors exist or are proposed, they may include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the property. Wildlife corridor systems retained or created hereunder shall be maintained through restrictive covenants, conservation easements, home owner association maintenance agreements, or similar instruments.
- F. Forest and developed woodlands, as defined by this Ordinance in an LDA, shall be created or protected in accordance with the following:
 - i. When no forest exists on the property, at least fifteen percent (15%) of the gross site area shall be afforested. The location of the afforested area should be designed to reinforce protection of existing habitats on the property or to provide wildlife corridor systems between newly afforested areas and forested areas on adjacent properties;

- ii. When forests or developed woodlands exist on the property and the proposed development or redevelopment requires the cutting or clearing of trees, areas proposed for clearing shall be identified on the proposed site plan. The developer shall submit the site plan showing the areas to be cleared to the Maryland Forest, Park and Wildlife Service for comments and recommendations and shall transmit the comments to the Zoning Administrator. A grading permit shall be obtained from Calvert County prior to any clearing or cutting of one (1) acre or more of forest or developed woodland or the cutting of specimen trees of twelve (12) inches caliper or more. In addition, said cutting or clearing shall be subject to the following limitations and requirements:

[1] All forests cleared or developed shall be replaced on not less than an equal area basis on the property. Alternatively the applicant may replace cleared forest area on another site selected by the Zoning Administrator or pay a fee-in-lieu of mitigation to the Town as provided for in subsection [6] below. When the actual development pad is created and cleared, and areas are reforested or afforested to the extent possible, a forest area shall continue to be considered and developed woodland and no replacement shall be required; **(Revised 12/6/06)**

[2] No more than twenty percent (20%) of the forest or developed woodland within the proposed development may be removed (except as provided for in [3] below). The remaining eighty percent (80%) shall be maintained as forest cover through the use of appropriate instruments (e.g., recorded restrictive covenants);

[3] The clearing of forest or developed woodlands of up to twenty percent (20%) shall be replaced on not less than an equal area basis. A developer may propose clearing up to thirty percent (30%) of the forest or developed woodland on the property, but the trees removed in excess of twenty percent (20%) must be replaced at not less than a rate of 1.5 times the area removed;

[4] If more than thirty percent (30%) of the forest on the property is cleared, the forest must be replaced at not less than a rate of three times the area removed:

[5] If the clearing of forest or developed woodland occurs before a grading permit is obtained, the forest shall be replaced according to Subparagraph (d) above.

[6] If the area of the site limits the application of the reforestation guidelines in this subsection, the applicant shall pay into a fee-in-lieu program administered by the Town at a rate established by the Town. **(Added 12/6/06)**

- iii. A performance bond shall be collected by the Town in an amount determined by the Town to assure satisfactory replacement as required by paragraphs (3) and (4) above. **(Revised 12/6/06)**
- iv. Grading permits shall be required before forest or developed woodland is cleared. **(Added 12/6/06)**
- v. Forests which have been cleared before obtaining a grading permit or that exceed the maximum area allowed as specified in this ordinance shall be replanted at three times the areal extent of the cleared forest. **(Added 12/6/06)**
- vi. If the areal extent of the site limits the application of the reforestation standards as specified in the paragraphs above, alternative provisions or reforestation guidelines may be permitted by the Town if they are consistent with the intent of the Forest and Woodland Element of this Program to conserve the forest and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions or use of a forest mitigation bank if the provisions are adequate to ensure the restoration or establishment of an equivalent forest area. **(Added 12/6/06)**
- vii. The forests and developed woodlands required to be retained or created through afforestation shall be maintained through restrictive covenants, conservation easements, home owner association maintenance agreements, or similar instruments.

viii. A Forest Management Plan must be submitted to the Zoning Administrator for all timber harvesting occurring in the Critical Area in a one (1) year interval and affecting one (1) or more acres of forest or developed woodland. The Forest Management Plan must meet the following requirements:

[1] The Forest Management Plan must be prepared by a registered professional forester.

[2] The consulting forester shall incorporate the Department of Natural Resources minimum standards into his proposal.

[3] The Plan must include a forest management map (including identification of Habitat Protection Areas); water quality recommendations; proposed silvicultural methods; sediment and erosion control techniques; and recommendations for providing continuity of wildlife habitat.

G. Development on slopes greater than fifteen percent (15%) shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability;

- H. Impervious surfaces shall be governed by the following requirements:
- i. Except as otherwise provided in this subsection for stormwater runoff, man-made impervious surfaces are limited to 15% of a parcel or lot.
 - ii. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to 25% of the parcel or lot.
 - iii. 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 man-made impervious surfaces are limited to 15% of the parcel or lot.
 - iv. If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985, then man-made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%.
 - v. New impervious surface limits provided in Subsections Hi and Hii of this section may be exceeded if the following conditions met as determined by the Planning and Zoning Commission.
 - [1] New impervious surfaces on the property have been minimized;
 - [2] For a lot or parcel one-half acre or less in size, total impervious surfaces do not exceed impervious surface limits in subsection Hii of this section by more than 25% or 500 square feet, whichever is greater;
 - [3] For a lot or parcel greater than one-half acre and less than one acre in size, total impervious surfaces do not exceed impervious surface limits in subsection Hiii of this section or 5,445 square feet, whichever is greater.
 - [4] Water quality impacts associated with runoff from the new impervious surfaces can be and have been minimized through site design considerations or use of best management practices approved by the Planning and Zoning Commission to improve water quality.
 - vi. A local jurisdiction may grant a variance from the provisions of this section in accordance with regulations adopted by the Commission concerning variances as part of local program development set forth in COMAR 27.01.11 and notification of project applications set forth in COMAR 27.03.01.

- I. A minimum one hundred (100) foot Buffer shall be established around all tributary streams, within which a minimum twenty-five (25) foot Buffer shall be established around all non-tidal wetlands as identified in the Town Critical Area Protection Program. This Buffer shall include or be expanded to include all sensitive areas which consist of hydric soils, steep slopes or highly erodible soils.
- J. Development and redevelopment in LDA shall install nonstructural shore erosion control measures where feasible and where appropriate on portions of the property proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where shore erosion control cannot be accomplished by non-structural measures, the proposed development must construct appropriate structural measures to control shoreline erosion on portions of the property proposed for development and near such portions if the shore erosion threatens the proposed development portion. The decision as to structural versus non-structural shore erosion control must be made on a project by project basis and comments must be obtained from the State Department of Natural Resources and the Army Corps of Engineers based on application by the developer in accordance with Article 6 of this Ordinance.

To the extent practicable, development and redevelopment in an LDA shall use cluster development to reduce impervious surfaces and maximize areas of natural vegetation.

(c) Resource Conservation Areas (**Amended 5/11/05**)

(1) Permitted Uses

- (a) Subject to the density provisions of subsection (4), residential development at a density of not greater than one dwelling unit per twenty acres;
- (b) Subject to the density provisions of subsection (4), cluster residential development at a net density of not greater than what is permitted by zoning regulations and a gross density of not greater than one dwelling unit per twenty acres;
- (c) Recreational facilities;
- (d) Farming uses;
- (e) Forestry uses.

(2) Special Exceptions

- (a) Water-dependent facilities;
- (b) Expanded LDA land uses and density, subject to the provisions of Article 4, Part 5.

(3) Variances

Any development which does not meet the mitigating and development requirements in the resource conservation area regulations if they may meet the requirements for variance applications as set forth in Section 8-206 of the Zoning Code.

(4) Density Provisions

(a) Subject to the provisions of subsection (c) below, density in Resource Conservation Areas (RCA's) shall not exceed one (1) dwelling unit per twenty (20) acres regardless of the densities permitted in the applicable underlying zoning districts, except as provided in this subsection (4). Determination of density shall be based on the gross area of the property prior to development, excluding State tidal wetlands. In determining residential densities for a property, private tidal wetlands and private non-tidal wetlands may be included in the calculation of one (1) dwelling unit per twenty (2) acres, provided the development density on the upland portion of the property does not exceed one (1) dwelling unit per eight (8) acres. Minimum lot sizes on the RCA's shall be governed by the standards applicable to the underlying zoning districts.

(b) For the purpose of calculating density, a dwelling units means 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. The definition of a dwelling unit includes living quarters for a domestic or other employee or tenant, and in-law or accessory apartment, a guesthouse, or a caretaker residence.

(c) One additional dwelling unit per lot or parcel as part of the primary dwelling unit shall be allowed for the purposes of the density calculation under this subsection if the additional dwelling unit meets either of the following sets of conditions:

- A.
 - 1. Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit;
 - 2. Does not exceed 900 square feet in total enclosed area; and
 - 3. Is served by the same sewage disposal system as the primary dwelling unit; or
- B.
 - 1. Is located within the primary dwelling unit;
 - 2. By its construction, does not increase the amount of impervious surface already attributed to the primary dwelling unit; and
 - 3. Is served by the same sewage disposal system as the primary dwelling unit.

(d) An additional dwelling unit meeting all criteria of subsection (c) above and that is separate from the primary dwelling unit may not be subdivided or conveyed separately from the primary dwelling unit. The zoning administrators shall require a restrictive covenant be placed on the property to ensure that the condition of this subsection (d) is followed.

(e) The provisions of subsection (c) apply to calculations only and may not be construed to authorize the Board of Appeals to grant a variance, unless the

variance is granted in accordance with the requirements and standards in this ordinance for variances in the critical area.

(f) The Zoning Administrator shall maintain records of all building permits issued under subsection (c) for additional dwelling units considered part of a primary dwelling unit and shall provide this information on a quarterly basis to the Critical Area Commission.

- (5) Development Standards in Resource Conservation Areas (RCA's). **Amended 8/22/06.**

All uses shall be subject to the following development standards in addition to the regulations established in other sections of this Ordinance. Development and redevelopment in those areas designated RCA shall be subject to the same development standards applicable to LDA's.

4-411 Fees-In-Lieu of Mitigation Program (Added 12/6/06)

A. Purpose

- i. A Town of Chesapeake Beach fee-in-lieu of mitigation program is hereby established to receive and spend fees-in-lieu of meeting the mitigation requirements under the Town Critical Area Program.

B. Applicability

- i. If a person subject to the Critical Area mitigation requirements of this Ordinance demonstrates to the satisfaction of the Town Planning and Zoning Commission that requirements for mitigation on-site or off-site cannot be reasonably accomplished, the person shall contribute money, at a rate to be established by the Mayor and Town Council, into a fee-in-lieu fund.
- ii. Monies contributed in-lieu-of mitigation shall be paid prior to receiving a zoning permit for those projects that require a zoning permit. For grading permits not accompanying a site plan or plat plan or other projects not requiring a building permit, any required fees-in-lieu shall be paid prior to receiving any Town permits.

C. Acceptable Expenditures

- i. The Town shall provide for the expenditure of monies collected for tree planting and related improvements that are intended to improve water quality and wildlife habit and otherwise advance the purposes of the Town's Critical Area Program.
- ii. Acceptable projects shall be those cited in or consistent with the Forest and Development Woodlands Plan, or an updated version thereof, which has been adopted by the Town and approved by the Critical Area Commission.

D. Accounting of Fees Paid

- i. Monies collected in the Town fee-in-lieu of mitigation program shall be accounted for separately to ensure that funds collected in lieu of mitigating Buffer impacts are first made available to fund projects located in the 100-foot Buffer. If opportunities within the 100-foot Buffer are not reasonably available, then such fees may fund projects located outside of the Buffer.
 - ii. Monies collected through the fees-in-lieu program shall not revert to the general fund of the Town Government.
 - iii. The Mayor and Town Council shall provide for an annual accounting of monies collected and expended through the fee-in-lieu program.
- E. Acceptable Projects for Use of Fee-in-Lieu Monies
- i. Fees in lieu of mitigation may be spent on the following:
 - a) Costs directly related to planting trees, shrubs, and other vegetative materials; reforestation; afforestation; non-structural and structural improvements to stormwater management facilities and systems to treat or otherwise improve the quality of waters entering the Chesapeake Bay and its tributaries, streams and wetlands; any other projects included in a Forest Plan or update thereof which has been jointly adopted by the Town and the Critical Area Commission.
 - b) Costs associated with site identification and/or project development, acquisition, and preparation.
 - c) Costs associated with organizing, operating, managing, and implementing the fee-in-lieu program including employee salaries, benefits, and attorney and consultant fees.
 - d) Fees collected in lieu of mitigation for the impact to Forest Interior Dwelling Bird (FIDS) habitats must be spent on areas qualifying for FIDS mitigation in accordance with the Critical Area Commission's Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area, June 2000.
 - ii. Priority Location of Projects
 - a) Monies collected through the fee-in-lieu program shall be spent on acceptable projects in the Critical Area of the Town of Chesapeake Beach except as provided below.
 - b) If fees-in-lieu cannot reasonably be spent in the Critical Area of Chesapeake Beach, then monies collected through the fee-in-lieu program shall be spent outside of the Critical Area but within the Town of Chesapeake Beach where a positive impact to the Critical Area can be demonstrated, except as provided below
 - c) If fees-in-lieu cannot reasonably be spent per subsections "a" and "b" above, then monies collected through the fee-in-lieu program shall be spent within the Critical Area within a 5-mile radius of the Chesapeake Beach Town Hall including parts of the Critical Area of Anne Arundel County, the Town of North Beach, or Calvert County, except as provided below

- d) If fees-in-lieu cannot reasonably be spent per subsections “a”, “b” or “c” above, then monies collected through the fee-in-lieu program shall be spent within the Critical Area of Anne Arundel County or Calvert County, except as provided below
- e) If fees-in-lieu cannot reasonably be spent per subsections “a”, “b”, “c”, or “d” above, then monies collected through the fee-in-lieu program shall be made available to a Critical Area mitigation bank located in the State of Maryland.

F. Amount of Fee: The required fee-in-lieu shall be paid at a rate of \$1.25 per square foot of required mitigation for private development projects and \$2.50 per square foot for public development projects.

ARTICLE 5

DIMENSIONAL REQUIREMENTS

Part 1	Dimensions Requirements	5-1
Part 2	Parking and Loading	5-7
Part 3	Landscape and Screening Requirements	5-18
Part 4	Signs	5-20

5-100 DIMENSIONS REQUIREMENTS

5-101 Tables of Dimensional Requirements

The regulations for each District pertaining to minimum lot area, minimum lot area per dwelling unit, minimum lot width, maximum height, and minimum required yards shall be as specified in the "Table of Dimensional Requirements" set forth below.

Lot Size¹ and Lot Width

	Zoning Districts						
	R-LD	R-MD	R-HD	R-V	C	M	RC
A. Minimum Lot Size (sf)	10,000	7,500	5,000	6,000	5,000	5,000	43,560
B. Average Minimum Lot Area Per Dwelling Unit (sf) ²	-	-	2,500	5,000	3,600	3,600	-
C. Minimum Lot Width (ft) ³	75	50	50	50	25	25	150

¹Lot areas must conform to State and County Health Department requirements.

²Applies only to Townhouse and Multi-Family dwellings. The average lot area of all dwellings on the lot shall equal or exceed that set forth above, provided that no lot is created with a lot area less than 2,000 square feet.

³The minimum lot width for Single Family dwellings without public water and sewer is 100 ft.

Setbacks, Open Space and Height

	Zoning Districts						
	R-LD	R-MD	R-HD	R-V	C	M	RC
A. Minimum Front Yard Setback (ft) ¹	15	15	15	15	10	10	25
B. Minimum Side Yard Setback (ft) ²	8	8	8	8	8	8	75
C. Minimum Rear Yard Setback (ft) ³	20	20	20	20	20	20	25
D. Minimum Open Space (%) ⁴	40	30	15	15	15	20	60
E. Maximum Building Height (ft) ⁵	35	35	50	35	35	70	35

¹Except that for Single Family dwellings with public water the minimum front setback is 20 ft and for Single Family dwellings with well and septic the minimum front setback is 25 ft.

5-102 Buffer Requirements for Waterfront Lots.

- (a) All waterfront lots created after the date of the Town Critical Area Protection Program approval shall establish a minimum one hundred (100) foot Buffer from the Mean High Water Line, all tributary streams, and from the edge of all tidal wetlands, and a twenty-five (25) foot buffer from the edge of all non-tidal wetlands in the Critical Area District except as provided in other provisions of this Ordinance relating to Buffer areas in the Town's Critical Area Ordinance. The Buffer areas established hereunder shall be expanded ten (10) feet for a building restriction line, unless otherwise established on a project by project basis.
- (b) The Buffer shall be expanded beyond one hundred (100) feet to include contiguous, sensitive areas, such as steep slopes, hydric soils, or highly erodible soils, whose development or disturbance may impact streams, wetlands, or other aquatic environments. In the case of contiguous slopes of fifteen percent (15%) or greater, the Buffer shall be expanded four (4) feet for every one percent (1%) of slope, or to the top of the slope, whichever is greater in extent.

5-103 Lot Area or Yards Required

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Ordinance. No required lot or area shall include any property, the ownership of which has been transferred subsequent to the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

5-104 Exceptions to Minimum Lot Sizes and Lot Widths (Subsection (b) Revised 9/11/08)

- (a) If two (2) or more adjoining lots of record, one or both of which fail to meet the requirements of this Ordinance with regard to lot area and/or lot width, have continuous frontage and are in single ownership at any time after the application of the provisions of this Ordinance to such lots, and if such lots taken together would form one or more lots, each meeting the requirements of this Ordinance with regard to lot area and lot width, such lot or lots shall no longer be considered nonconforming, and must be used in compliance with the lot area and lot width requirements irrespective of subsequent changes in ownership.
- (b) In any District in which single family dwellings are permitted. subject to the provisions of Section 5-1 04(a) above, if a lot which is of record prior to May 26, 1972, is insufficient as to lot area or lot width, a single family detached dwelling may be constructed on such lot regardless of the requirements of this Ordinance with regard to lot area, lot width and setbacks. But conforming to all other regulations of the district in which such lot is located and provided that:

(1) All health requirements are met;

(2) In no case shall any side yard be less than ten percent (10%) of the width of the lot;

(3) Within the Residential-Medium Density (R-MD) zone. in such instances where the side yard setback required under Section 5-10 I is reduced by the operation of subsection (2), the maximum building height shall be the higher of twenty-five (25) feet or the maximum height of any structure on an adjoining property on the side yard for which the setback was reduced. If both side yard setbacks are reduced under subsection (2), and there is a structure on both of the adjoining lots on either side of

the lot to be developed, then the maximum height limitation shall be higher of twenty-five feet or the average of the maximum height of the two adjoining structures. The height limitations of this section shall apply notwithstanding the maximum building height provided for by Section 5-101. but shall only apply if the property owner takes advantage of the reduction in side yard setback(s) under subsection (2).

(4) In no case shall the depth of the rear yard be less than ten (10) feet.

5-105 Front Yard Reduction

When there is an existing building on each of two (2) lots adjacent on either side to a lot on which a proposed building is to be erected, where both such existing buildings have an alignment nearer to the street line than the required front yard depth elsewhere specified in this Ordinance, and when both such existing buildings are within one hundred (100) feet of the proposed building, the average of the existing front yard depths of such adjacent lots shall be the minimum required front yard depth onto which the proposed building is to be erected, provided that the above reduction shall not apply to any special exception uses or to any construction in Buffer Areas.

5-106 Permitted Projections Into Required Yards **(Revised 10/11/06)**

Subject to Section 5-110, the provisions of Section 5-101 shall not apply to fences or walls which are less than six feet above the natural grade nor to terraces, steps, or other similar features not over three (3) feet high above the floor level of the ground story. Covered porches over 35 square feet or decks, whether covered or uncovered, shall not be permitted in the setbacks required by Section 5-101. Subject to Section 5-110 and 5-113, the setback requirements of Section 5-101 shall not apply to accessory signs and off-street parking spaces.

5-107 Accessory Buildings in Side and Rear Yards **(Revised 10/11/06)**

- (a) Completely detached accessory buildings may occupy required side and rear yards but shall not be located closer than five (5) feet to any side or rear property line.
- (b) In R-LD, R-MD, R-HD, R-V and RPC Districts, self-supporting decks of less than 500 square feet may occupy required side and rear yards but shall not be located closer than five (5) feet to any side or rear property line. A deck is self-supporting if it is not reliant upon a connection to the dwelling for structural support.
- (c) No outdoor storage shall take place in the required front yard, parking or loading areas, or in the Buffer or any other buffer area unless otherwise permitted in this Ordinance.

5-108 Front and Side Yards of Corner Lots

On a corner lot the street side yard shall equal the required front yard for lots facing that street.

5-109 Rear Yard Requirements for Triangular Lots

In the case of a triangular lot with no rear lot line, the distance between any point on the building and corner of the lot farthest from the front line shall be at least twice the rear yard setback specified in Section 5-101.

5-110 Traffic Visibility Across Corners

On any corner lot, no wall, fence, or other structure shall be erected or altered, or no hedge, tree, shrub, or other growth shall be maintained which may cause danger to traffic on a street by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line twenty-five (25) feet from the intersection of said street lines.

5-111 Walls Not Parallel To Lot Lines

Where a wall of a building is not parallel with its corresponding lot line, the required width or depth of any yard on that side of the building shall be taken as the average width or depth, provided that said yard shall not be narrower at any point than three-fourths of the required width or depth.

5-112 Height Exceptions to Maximum Regulations (Revised 2/7/07)

- (a) Church spires, chimneys, antennas, and other structures normally built or located above the roof and not devoted to human occupancy may exceed the height regulations of the District in which they are located by one foot for every one foot of setback of the structure (e.g. chimney, spire) from the closest side lot line.
- (b) For multiple family dwellings and commercial uses, the finished lot grade used to establish the maximum building height shall be considered the first floor of living space, measured at the front door, for any structure for which off-street parking is provided underneath the living space, so long as the off-street parking space is no higher than one foot for every one foot of setback of the structure from the closest lot line.

5-113 Design Standards - Townhouses

(a) Setbacks.

(1) Purpose: The purpose of requiring setbacks is to ensure that residents in the community and surrounding area will receive adequate light and air and will be able to maintain privacy and freedom from undesirable disturbance from neighbors. However, the strict application of setback requirements can discourage innovation and promote unnecessarily monotonous site designs. Therefore, flexibility is incorporated into the following provisions in order to enable designers to address the problems of light, air, privacy and freedom from disturbance from traffic and neighbors through the use of techniques other than setback requirements.

(2) Basic Requirements: Building-to-Building Setbacks:

- A. Front building to front building: 35'
- B. Rear building to rear building: 50'
- C. Side building to side building: 60'*
- D. Front building to rear building: 75'
- E. Front building to side building: 50'
- F. Rear building to side building: 30'
- G. Corner to corner: 30'*

*A break between clusters of 8 or fewer units may be reduced to a minimum of 5' provided the space is surfaced as a walkway and receives approval from the Planning & Zoning Commission.

- (b) Size and Scale and Building Mass.
 - (1) To avoid monotonous linear development, townhouse development shall be in small clusters designed as neighborhood units. A cluster shall not include more than 50 units.
 - (2) The number of units in a row is to be limited to a maximum of 8 units.
 - (3) Offsets at party walls and/or front and rear facades and/or similar devices are required to visually reduce building mass and create individualized spaces (courtyards, seating areas, etc.) for both townhouse and multi-family projects. If techniques other than offsets are utilized, building elevations prepared by a registered architect will be required.
- (c) Exceptions: If all of the following conditions are met, building to building setback requirements may be waived:
 - (1) Private outdoor spaces, if provided, are visually screened from each other and from public travel-ways (vehicular and pedestrian) to a height of at least 4 feet. (To qualify, screening must be permanent, year-round and require little to no maintenance).
 - (2) Windows of individual units do not directly face each other unless a minimum of 25 feet is provided between windows.
 - (3) At least one wall of each unit is provided with windows looking onto a space at least 50 feet square (50' x 50').
 - (4) Each unit is designed to ensure adequate ventilation.
 - (5) No distinction is made, in terms of exterior siding and trim, between fronts, sides and rears of buildings.
 - (6) Approval is granted from the Department of Public Safety.
 - (7) The waiver of building to building setbacks substantially improves the design and aesthetic quality of the project.

(d) Building Setback from Streets.

Purpose: To provide a visual and sound buffer between buildings and roadways.

The set back from all streets shall be 25' minimum.

Exception: A setback reduction to no less than 10 feet may be approved in cases where a specialized site design warrants a reduced setback and noise and safety consideration are adequately addressed.

(e) Building Setback from adjacent property.

Purpose: To protect the privacy of existing residents; to provide a visual transition between different housing densities and to help ensure compatibility with the existing character of the neighborhood.

The minimum setback shall equal the height of the building, excluding the roof, or 30 feet, whichever is greater. If variable roof heights are utilized, the average height of the building at the boundary to adjacent property shall be used to establish minimum setbacks.

5-114 Open Space Requirements

Purpose.

Open space shall be provided within each developed lot to preserve, protect and enhance the quality and value of developed lands; promote the preservation of natural and scenic areas; protect sensitive natural resource areas; for the natural retention of stormwater, to promote access to light, open air, recreational opportunities for the health and public welfare of residents.

Identification.

Open space shall mean landscaped or undeveloped land used for outdoor active and passive recreational purposes or for Critical Area or resource land protection, including structures incidental to these open space uses, including required buffers, but excluding land occupied by structures or impervious surfaces not related to the open space uses and yards required by this Ordinance.

5-200 PARKING AND LOADING

5-201 General Regulations Applying to Required Off-Street Parking Facilities

(a) Existing Parking -- Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the requirements of this Article so long as the kind or extent of use is not changed, provided that any parking facility now serving such structures or uses shall not in the future be reduced below such requirements.

(b) Changes in Requirements -- Whenever there is an alteration of a structure or a use which increases the parking requirements according to the standards of Section 5-302, the total additional parking required for the alteration, change, or extension shall be provided in accordance with the requirements of that section.

No open space in an automobile parking compound shall be encroached upon by buildings, storage or any other use; nor shall parking space be reduced in area, except upon approval of the Zoning/ Public Works Administrator and then only after proof that, by reason of reduction in floor area, meeting area, or other factors controlling the

regulation of such parking facilities, the proposed reduction in off-street parking space is reasonable and in accordance with the standards of Section 5-302 .

- (c) Conflict with Other Uses -- No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- (d) Continuing Character of Obligation -- All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner of the particular uses to assure the availability of required facilities to the customers, employees, or other persons whom the facilities are designed to serve.
- (e) Joint Use -- Two (2) or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually. If one parking lot serves several businesses with different parking characteristics or businesses that operate with different hours, the total number of parking spaces may be reduced by twenty percent (20%) by the Planning and Zoning Commission.
- (f) Fractional Spaces -- Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.
- (g) Location of Parking Space -- Required off-street parking spaces shall be on the same lot or premises with the principal use served, or where this requirement cannot be met, within four hundred (400) feet of the principal use served within the same District or on a lot abutting a Commercial District subject to the requirements of Article 3 Part 1. Parking for private residences in residential districts shall not be located within the front setback area between the principal structure and the street. A parking space in a garage or enclosed carport shall not be counted toward complying with the parking requirement for residential dwellings.
- (h) Off Street Loading and Unloading --
 - (1) Off-street loading and unloading shall be provided especially and specifically for the following purposes:
 - A. To remove from the public streets all service vehicles being loaded or unloaded or awaiting loading or unloading.
 - B. To minimize the obstruction of both vehicular and pedestrian traffic on public streets, and on designated public ways in developments.
 - (2) Dimensions of off-street loading and unloading areas: Each area shall have the following minimum dimensions, exclusive of driveways, entrances and exits.
 - A. Industrial wholesale and storage uses
 - Length: 45 feet
 - Width: 12 feet
 - Height, if covered: 15 feet
 - B. All other uses
 - Length: 35 feet
 - Width: 12 feet
 - Height, if covered: 15 feet
 - (3) Off-Street Loading and Unloading Requirements.
 - A. Apartment building

	None	First 20 units
	1 per	20 to 200 units
	1	additional for each additional 200 units, or fraction thereof.
B.	Hospitals or other institutions such as: Office buildings, Hotels, Theaters, Auditoriums and Other Recreational Facilities	
	None	First 10,000 sq. ft.
	1 per	10,000 to 100,000 sq. ft.
	1	additional for each additional 100,000 sq. ft. or fraction thereof.
C.	Retail sales and services per store	
	None	First 2,000 sq. ft.
	1 per	2,000 to 10,000 sq. ft.
	1	additional for each additional 25,000 sq. ft. or fraction thereof.
D.	Industry or manufacturing or wholesale or warehousing	
	None	First 2,000 sq. ft.
	1 per	2,000 to 20,000 sq. ft.
		1 additional for each additional 40,000 sq. ft. or fraction thereof.

(4) The Planning and Zoning Commission may reduce by twenty percent (20%) any or all of the requirements of this Section or increase the minimum requirements of this Section when public health, welfare and safety of the Town or the Town's citizens or the peculiar circumstances of the site so require.

(i) Pedestrian/Vehicular Flow --

(1) Site Access

- A. Sites shall be designed to provide proper site access to ensure traffic safety, pedestrian safety, and alleviate traffic congestion.
- B. The Planning and Zoning Commission may approve or require one or more than one additional access if access is deemed to be significantly beneficial to the safety and operation of the road or the site or in the instance of one access if only one access approach would be a safety hazard or increase traffic congestion.
- C. The Planning and Zoning Commission may approve or require additional access when the parcel is bisected by steep slopes in such a manner as to render some portion(s) of the property inaccessible without additional road access.
- D. In the event that the Planning and Zoning Commission requires more information to determine traffic safety, pedestrian safety and traffic congestion, the Planning and Zoning Commission may require additional information from the applicant, including but not limited to, a traffic study.

(2) Vehicular Flow (on site)

Sites shall be designed to prevent awkward or dangerous vehicular flow:

- A. If a parking lot is adjacent to a road, a 5-foot wide median must be provided. Exceptions to this rule may be in width or eliminating the median in instances where the Planning and Zoning Commission determines that a median or the width of the median is not feasible.

- B. Room must be available to allow vehicles to back out of parking spaces. Space for maneuvering incidental to parking shall not encroach upon any public way.

(3) Pedestrian Flow

Sites shall be designed to:

- A. Promote access for handicapped persons:
 - i. At least 1 handicapped parking space shall be provided for every 25 spaces or part thereof.
 - ii. Discourage pedestrians and vehicles from sharing the same pathways and provide for bicycle access.

- (4) Delivery Trucks and Trash Collection Vehicles
 - A. Loading and unloading spaces for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
 - B. Trash boxes must be accessible to collection trucks when all vehicle parking spaces are filled.
- (5) The Planning and Zoning Commission may reduce by twenty percent (20%) any or all of the requirements of this Section or increase the minimum requirements of this Section when public health, welfare and safety of the Town or the Town's citizens or the peculiar circumstances of the site so require.

5-202 Table of Parking Requirements

Parking spaces shall be provided in accordance with the following schedule and subject to conditions contained in Article 3 Part 3. In all zones, either space for parking and storage of vehicles shall be provided or the applicant shall demonstrate to the satisfaction of the Planning and Zoning Commission that adequate parking is provided for Table 2 illustrates the uses and parking space requirements:

Table 2

LAND USE CLASSIFICATIONS	Parking Space Requirement
Residential Uses	
1. Single Family Detached	2/dwelling unit
2. Single Family Attached	2/dwelling unit
3. Townhouse Dwelling	2/dwelling unit
4. Multi-family Dwelling	1.5/dwelling unit
5. Dwelling, Accessory	1/dwelling unit
6. Dwelling Unit in Combination with Commercial Use	*
Institutional, Recreational and Educational Uses	
7. Churches and other places of worship, provided housing for religious personnel shall meet the minimum requirements of Uses 1 through 4 as applicable.	1/4 seats in main assembly hall
8. Public/ Private Schools	1/5 students + 1/staff**
a) Elementary School	3/teaching station
b) Middle School	3/teaching station + 1/6 seats in main assembly hall
c) High School	3/teaching station + 1/4 seats in main assembly hall
9. Home Day Care	1/staff
10. Day Care Center, nursery school, kindergarten or other agency giving care to persons as a commercial operation.	3/classroom
11. Professional school, studio for music or art instruction, dancing school, similar.	1/5 students
12. Library, museum, community center, adult education center or similar open to the public or connected with a permitted use and not conducted as a private business.	1/ 500 square feet (s.f.) Gross Floor Area (GFA) + 1/staff
13. Public building or recreational facility owned and operated by Chesapeake Beach or other government agency.	*
14. Private club, lodge, dining club, yacht club not run as a private gainful business.	*
15. Orphanage, nursing home, or other licensed establishment for the care of aged, disabled, or convalescent persons, etc.	1/5 beds + 1/staff
16. Group Home	*

* As determined by the Planning Commission.

** A Staff member shall be a full time non-residential employee or the equivalent thereof.

Table 2 (con't)

LAND USE CLASSIFICATIONS	Parking Space Requirement
Office and Commercial Uses	
17. Professional Office in Residence, physician, architect, lawyer, similar	2/professional
18. Office or clinic for medical or dental examination or treatment of persons as outpatient including laboratories incidental thereto	2/examining room
19. Therapeutic Massage	*
20. Offices for business, professional, or governmental purposes	1/400 s.f. GFA
21. Artists, photographer's gallery, studio	1/500 s.f. GFA
22. Retail establishments carrying one type of interrelated goods such as book store, gift shop, florists shop, etc. -adult bookstore prohibited.	1/350 s.f. GFA
23. Retail convenience stores and retail establishments carrying commodities which tend to be purchased on a comparison basis such as food supermarket, department store, discount store, pharmacy, etc.	1/250 s.f. GFA
24. Personal services including barbershops, salons, laundry, dry cleaning (receiving stations) shoe repair, travel agency, insurance, real estate, repair shop for bikes, watches, locks, etc.	1/250 s.f. GFA
25. Financial Service, Bank	1/300 s.f. GFA
26. Business services, printing, copying, contractors shop, plumbing shop	1/400 s.f. GFA
27. Appliance and furniture repair, upholstery	1/400 s.f. GFA
28. Restaurant - drive up / drive thru windows at fast food restaurants are prohibited.	Equal to 30% of the legal seating/standing capacity of persons
29. Tavern, Nightclub	"
30. Bed and Breakfast Establishment	1/unit
31. Rooming, Boarding, Lodging House	*
32. Motel, hotel, tourist home	1/unit + 1/staff
33. Entertainment and recreation facilities operated as a business within a building with the exception of an adult bar, restaurant, or nightclub	1/250 s.f. GFA
34. Outdoor entertainment and recreation facilities operated as a gainful business	*
35. Animal hospital, veterinarian clinic	1.5/ examining room

* As determined by the Planning Commission.

** A staff member shall be full time non-residential employee or the equivalent thereof.

Table 2 (con't)

LAND USE CLASSIFICATIONS	Parking Space Requirement
Automotive and Boat Service Uses	
36. Non-residential parking area located in a residential district	*
37. Automotive service station	1/pump + 1/service bay + 1/staff
38. Sale or rental of automobiles	1/ 300 s.f. GFA
39. Repair garage including paint spraying and body and fender work or car washing facility	1/service bay + 1/staff
40. Marina including fuel service for watercraft, boat storage and repair yard, boat sales and service.	3/5 boat slips; 5/boat ramp + 10/boat ramp(overflow-grass permitted)
Utilities, Communications, Transportation	
41. Transformer station, structure housing switching equipment and regulators, power transmission line right-of-way, radio, television transmitter tower, cellular tower, etc.	*
42. Bus station, inter-modal transit center	*
Industrial Uses	
43. Light Industrial uses	1/2 staff
44. Water-dependant processing, fishing activities	1/2 staff
45. Warehousing and storage in association with marine commercial activities	1/1,500 s.f. GFA
Unclassified Uses	
46. Customary Home Occupation (1 employee)	N/A
47. Home Occupation (max. 2 employees)	1/staff + 3/physician or dentist
48. Garage, yard, estate sale	N/A
49. Carnival or similar transient enterprise	*
50. Temporary building incidental to construction	N/A
51. Dwelling for Resident watchman	N/A

* As determined by the Planning Commission.

Note: Some conditional uses require additional restrictions on parking. See Article 3 Part 3.

5-203 Design Standards

(a) The minimum dimensions of stalls and aisles shall be as follows:

(1) Standard Stalls

- A. Standard stall width shall be at least nine (9) feet.
- B. Standard stall depth shall be at least eighteen (18) feet for all angle parking and twenty-two (22) feet for parallel parking.

(2) Compact Stalls

If more than twenty (20) spaces are required, the owner/applicant may designate up to twenty percent (20%) of the spaces as compact spaces, with a minimum width of eight (8) feet and length of seventeen (17) feet, subject to the Planning and Zoning Commission's approval.

(3) Handicap Stalls

All uses shall provide handicap spaces at a rate of 1 per each 25 required parking spaces or part thereof. Handicap spaces are to be 12' wide by 18' long.

(4) Boat Ramp Stalls

Spaces accompanying boat ramps shall be at least twelve (12) by forty (40) feet.

(5) Aisles

A. Minimum width of aisles providing access to stalls for one-way traffic only shall be:

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	12 feet
30*	11 feet
45*	13 feet
60*	18 feet
90*	25 feet

B. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-five (25) feet.

(b) Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other vehicle.

(c) The width of entrance and exit drives shall be:

- (1) A minimum of twelve (12) feet for one-way uses only.
- (2) A minimum of twenty (20) feet for two-way use.
- (3) A maximum of thirty (30) feet at the street line.

(d) In no case shall parking areas for three (3) or more vehicles be designed to require or encourage cars to back into a public or private street in order to leave the lot.

(e) Parking areas associated with public, semi-public, commercial, or industrial use shall have an all-weather surface designed to prevent dust, erosion, or excessive water flow

across streets or adjoining property. All parking shall be located on a parking surface approved by the Public Works/Zoning Administrator.

- (f) All lighting used to illuminate any parking space or spaces shall be arranged so as not to cause a glare into abutting lots.
- (g) Establishments with drive-in facilities may, upon the approval of the Planning and Zoning Commission, substitute stacking spaces on a one for one basis for required parking provided that a minimum of six parking spaces is provided and the stacking is designed so as to not impede normal vehicular flow on or off site.
- (h) All off-street parking lots and their access drives shall be at least ten (10) feet from any principal building;
- (i) No off-street parking aisle for motor vehicles shall exceed 180 feet in length. Separate parking areas on a lot shall be physically separated from one another except for access drives or streets by eight (8) foot planting strips.
- (j) All parking facilities and site amenities shall comply with the requirements of the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990 regarding facilities for the handicapped.

5-204 Off-Street Loading Spaces Required

In any zone in connection with every building or part thereof, having a gross floor area of four thousand (4,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display or sales, mortuary, or other uses similarly requiring the receipt and distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building or use, at least one off-street loading space plus one additional such loading space for each ten thousand (10,000) square feet of gross floor area or major fraction thereof. Each loading space shall be not less than ten (10) feet in width, forty-five (45) feet in length, and fourteen (14) feet in height. Such space may occupy all or any part of any required yard or court, except a front yard. No such space shall be located closer than fifty (50) feet to any lot located in any R-LD, R-MD, R-HD or R-V 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 six (6) feet in height.

5-205 Minimum Bicycle Parking Requirements by Land Use

Bicycle parking shall be provided in accordance with the following schedule. In all zones, either space for parking and/or storage of bicycles shall be provided or the applicant shall demonstrate to the satisfaction of the Planning and Zoning Commission that adequate bicycle parking is provided for.

Boarding houses	2, or 1 per 10 units
Bed and Breakfast, hotels, motels	2, or 1 per 25 employees
Retail sales, service operations	2, or 1 per 5,000 s.f. GFA
Office buildings	2, or 1 per 5,000 s.f. GFA
Museums, libraries, similar	4, or 1 per 3,000 s.f. GFA
Churches, similar	1 per 50 members
Community Centers	1 per 250 s.f. GFA
Schools	
a) Elementary	1 per 10 students
b) Middle and High	1 per 6 students
Indoor Amusement	4, or 1 per 50 seats

Restaurants, ice cream shops, coffee shops	4, or 1 per 50 seats
Other Commercial / Industrial/ Warehousing	2, or 1 per 50 employees

5-206 Design of Bicycle Parking Spaces

Bicycle parking spaces shall be provided in accordance with the amounts required by Section 5-205 and with the design regulations in this Section.

- (a) Each bicycle parking space shall be sufficient to accommodate a bicycle at least six (6) feet in length and two feet wide, and shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using a chain and padlock, locker, or other storage facilities which are convenient for storage and are reasonably secure from theft and vandalism. The separation of the bicycle parking spaces and the amount of corridor space shall be adequate for convenient access to every space when the parking facility is full.
- (b) When automobile parking spaces are provided in a structure, all required bicycle spaces shall be located inside that structure or shall be located in other areas protected from the weather. Bicycle parking spaces in parking structures shall be clearly marked as such and shall be separated from auto parking by some form of barrier to minimize the possibility of a parked bicycle being hit by a car.
- (c) Bicycle parking spaces shall be located near the entrance of use being served and within view of pedestrian traffic if possible, and shall be sufficiently secure to reasonably reduce the likelihood of bicycle theft.
- (d) Bicycle parking facilities shall not impede pedestrian or vehicular circulation, and should be harmonious with their environment both in color and design. Parking facilities should be incorporated whenever possible into building design or street furniture.
- (e) Racks must not be placed close enough to a wall or other obstruction so as to make use difficult. There must be sufficient space (at least 24 inches) beside each parked bike that allows access. This access may be shared by adjacent bicycles. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least six (6) feet to the front or rear of a bike parked in the facility.
- (f) Paving is not required, but the outside ground surface shall be finished or planted in a way that avoids mud and dust. Bike parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, poles or other similar features.

5-300 LANDSCAPING AND SCREENING REQUIREMENTS

5-301 Purpose and Intent

The purpose and intent of this Section is to preserve and promote the health, safety and general welfare of the public; to facilitate the creation of an attractive Town; to conserve natural resources including adequate air and water; to conserve properties and their values; and to encourage the appropriate use of land. More specifically this Section is intended to make incompatible uses compatible by requiring a screen or buffer between the uses in order to minimize the harmful impact of noise, dust and other debris, artificial light intrusion, and other objectionable activities or impact conducted or created by adjoining or nearby use. Additionally, this Section is intended to require the landscaping of certain parking lots in order to reduce the harmful effect of heat and noise, and the glare of motor vehicle lights; to preserve underground water reservoirs and to permit the return of precipitation to the ground water strata; to act as a natural drainage system and ameliorate storm water drainage problems; to prevent soil erosion; to provide shade and to enhance the blighted appearance to parking lots.

5-302 Applicability

The provisions of this Article shall apply to all development where site plans are filed in accordance with the provisions of Article 6 and to all public and private parking facilities.

5-303 Landscaping Requirements

- (a) A landscaping scheme shall be submitted as part of every site plan required by the provisions of Article 6.
- (b) Such landscaping schemes shall include dimensions and distances and clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size and description of all landscaping materials to be used.
- (c) The landscaping measures shall be completed according to specifications prior to approval of any zoning and occupancy permit.

5-304 Screening Requirements

All developments for which site plans are filed in accordance with the provisions of Article 6 shall be effectively screened on each side that adjoins a residential use. Required screening shall consist of a masonry wall or wooden fence of not less than seventy-two (72) inches high at the time of original planting. Where a masonry wall or wooden fence is utilized, a minimum twenty-four (24) inch landscaping strip outside the fencing shall be planted with clusters of trees and shrubs with a maximum spacing between clusters of twenty-five (25) feet.

- (a) The required screening must be 7 feet high at installation if the adjacent property is currently residential and if a residence is currently less than 100 feet from the property line.
- (b) The screen shall be capable of providing year round screening.

- (c) Where noise is likely to be a factor, the screen shall be of sufficient construction to be an effective noise buffer.
- (d) The screening shall be located so as to provide a maximum of visual screening.

5-305 Perimeter Parking Lot Landscaping

All off-street parking facilities, whether or not located on the same lot as the use to which it is accessory, containing five (5) or more parking spaces shall meet the following perimeter landscaping requirements.

- (a) A landscaping strip five (5) feet in width shall be located between the parking facility and the adjoining lot lines.
- (b) A minimum of one shade tree for every forty (40) feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or low shrubs shall be used as the primary landscape material.
- (c) On the landscaping strip adjacent to a street right-of-way, or to a R-LD, R-MD, R-HD, R-V or RPC district, a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than four (4) feet or greater than six (6) feet in height is required to reduce the visual impact of the parking facility.

5-306 Internal Landscaping of Surface Parking Facility

Any surface parking facility of twenty-five (25) or more spaces shall be landscaped with shade trees of not less than five (5) percent of the internal area of the surface parking facility. The internal area of a parking facility is defined by the perimeter of the curbs or edge of paving. Planting area should be wide enough to protect the trees from a vehicle's swinging doors and bumper overhang.

5-307 Lighting in Parking Lots

Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises located in a R-LD, R-MD or RPC zoning district, and from public roads.

5-308 Maintenance

- (a) All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences and walls shall be maintained in good repair.
- (b) The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this Section.

5-309 Waiver or Modification

The Planning Commission or Zoning Administrator, under the provisions of Article 6, may approve a waiver or modification of the requirements of this Section. Such waiver or modification may be approved:

- (a) For an interim use of a specified duration, and/or where deemed appropriate due to the location, size, surrounding area or configuration of the lot; and
- (b) When such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

5-400 SIGNS

5-401 Definition of "Sign"

Any structure, part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry, which is located upon any land, on any building, in or upon a window, or indoors in such a manner as to attract attention from outside the building.

5-402 Definitions of "On-Premises" signs

- (a) On-Premises Sign -- A sign which directs attention to a business, commodity, service, entertainment, home occupation, or other activity conducted, sold, or offered on the same lot. A sign advertising exclusively the sale, lease, rental or development relating to the lot on which it is displayed shall be deemed an "on-premise sign."
- (b) Off-Premises Sign -- A sign which directs attention to a business, commodity, service, entertainment, home occupation, or other activity not conducted, sold, or offered on the same lot.

5-403 Intent and Exemptions from the Terms of This Article

No sign shall be erected, hung, placed, or painted in any District except as hereinafter provided.

Tacking, painting, posting, or otherwise affixing of signs or posters of a miscellaneous character on the walls of buildings, barns, sheds, trees, posts, poles, fences, walls, or other structures except as provided for in this Ordinance is prohibited.

No sign erected before the enactment of these regulations shall be altered in any respect or moved, except in compliance with the provisions of this Ordinance.

The Residential Districts include the R-LD, R-MD, R-HD, R-V, RC and RPC Districts. The Commercial Districts include the C and M Districts.

5-404 Word Interpretation

For the purpose of this Article and any other Articles relating to signs in this Ordinance, any of the following words are intended to include any tense or to read with the prefix "re": affix, alter, attach, display, erect, hang, move, paint, paper, paste, place, post, repair.

5-405 Area of Sign

- (a) The area of a sign shall be construed to include all lettering, working, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- (b) The area of a sign painted upon or applied to a building shall be construed to include all lettering, wording, and accompanying designs or symbols together with any backing associated with the sign.
- (c) Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- (d) In computing square foot area of a double-face sign, only one side shall be considered, provided both faces are identical.

5-406 Permit Requirements for Signs

No on-premises sign over four (4) square feet in area and no off-premises sign (except governmental sign) of any size shall be erected, affixed, painted, hung, or otherwise displayed, altered, or repaired, unless a permit therefore has been issued. No permit shall be required for the repainting or repapering of a sign which conforms to the provisions of this Ordinance. Signs on theaters advertising changes in program shall not require permits except for the initial installation thereof. All signs of any size must comply with all the regulations contained herein, irrespective of whether a permit is required.

5-407 Signs Permitted in Residential Districts

- (a) On-Premises Signs
 - (1) Official traffic signs and other official federal, state, county or town government signs.
 - (2) A sign indicating the name or number of the building or premises or the accessory use of a dwelling for a home occupation, provided that such sign shall not exceed two (2) square feet in area; that not more than one (1) such sign shall be erected on a property, unless such property fronts on more than one street, in which case one (1) such sign may be erected on each street frontage.
 - (3) A sign, if illuminated, shall be indirectly lit and no flashing lights or backlit signs shall be permitted
 - (4) Bulletin or announcement board or identification signs for schools, churches, hospitals, and other principal uses and buildings other than dwellings, provided that the area of any such sign shall not exceed twelve (12) square feet and not more than (1) such sign shall be placed on property unless such property fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage.
 - (5) Signs advertising exclusively the prospective sale or lease of the land or building upon which such signs are displayed, provided that the area of any such signs shall not exceed

six (6) square feet and not more than one (1) such sign shall be placed on a property, unless such property fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage. Such signs shall be removed immediately upon final settlement or renting of a property.

- (6) A temporary sign advertising the development of the property upon which it stands or the opening of a new subdivision, provided that the area of any such sign shall not exceed one hundred (100) square feet, that not more than one (1) such sign may be placed on a property, unless such property fronts on more than one (1) street, in which case one (1) such sign may be erected on each street frontage. Such signs shall be removed immediately upon completion of the development or eighteen months (18) after erection of the signs, whichever shall occur first.
- (7) Temporary contractors, architects or building signs, provided that the area of any such sign shall not exceed twelve (12) square feet. Such signs shall be removed immediately upon completion of the work or eighteen (18) months after erection of the signs, whichever shall occur first.
- (8) Traffic control and directional signs not exceeding two (2) square feet in area. Such signs shall not be illuminated, but may be of the beaded reflector type. No advertising matter whatsoever shall be contained on signs of this type.
- (9) Trespassing signs, signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall not exceed two (2) square feet.
- (10) Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, education, or religious organization. Such signs shall not exceed twelve (12) square feet in area and shall be removed not more than five (5) days after the event. Temporary signs shall not be permitted for more than 60 days per year.

(a) Off-Premises Signs

- (1) Official traffic signs and other federal, state, county, or town government signs.

5-408 Signs Permitted in the Commercial Districts

(a) On-Premises Signs

- (1) All signs permitted in Section 5-507 at the standards prescribed therein except as otherwise provided in this Section.
- (2) Signs for permitted non-residential uses provided:
 - A. The aggregate area of all signs attached to or printed on a building shall not exceed ten percent of the area of the building face to which they are attached and painted, or one hundred square feet, whichever is less.
 - B. Free standing signs identifying a single building or its business or a shopping center in accordance with the following schedule:

Total Street Frontage

No. Signs Permitted

1 to 1,000 feet	one
Each additional 1,000 ft.	one

The area of any free standing sign shall not exceed one (1) square foot for each lineal foot of street frontage occupied by the use on which or in connection with which the sign is to be erected, but in no case shall the area of a sign exceed one hundred (100) square feet.

(b) Off-Premise Signs

- (1) All signs permitted in Section 5- at the standards prescribed therein.
- (2) Signs used for directing patrons, members, or audience to service clubs, churches, or other non-profit organizations, provided signs shall indicate only the name, emblem, meeting hours, address, and direction of the facility, and shall not exceed four (4) square feet in area.

5-409 General Sign Regulations

- (a) No sign shall project more than three (3) feet above the roof or more than fourteen (14) inches out from the wall to which it is attached. Signs not exceeding four (4) square feet in area may be placed perpendicular to a building face if attached to and below a canopy projection from said building.
- (b) No signs shall be located within any street lines except signs permitted in
- (c) Signs shall not exceed the height limit permitted in any District in which they are located. The maximum height for free-standing signs shall be 20'.
- (d) Signs shall not obstruct any window, door, fire escape, stairway, or other opening intended to provide light, air, ingress, or egress for any building or structure.
- (e) No sign shall constitute a public safety and traffic hazard, such as by obstructing traffic signals, road warning signs, street name signs, or the full view of the traffic in all directions. Lighting devices shall be shielded so that they do not shine directly into a public street or highway or into a residential District.
- (f) All signs except temporary signs shall be constructed of durable material and kept in good condition and repair. Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises or the public safety, in the opinion of the Public Works/Zoning Administrator, he/she shall order that such sign be made safe or removed. Such order shall be complied with within five (5) days of receipt thereof by the person, firm, or corporation owning or using the sign or the owners of the building or premises on which such unsafe sign is affixed or erected.
- (g) Nonconforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs if not removed may be repainted or repaired, provided such repainted or repaired sign does not exceed the dimensions of the existing sign, and provided no change is made in the general working or content of the sign.
- (h) Signs, including portable and temporary signs, directing patrons, members, or audience to temporary exhibits, shows, or events, are permitted subject to the following requirements:

- (1) No such sign shall exceed twelve (12) square feet in area.
 - (2) Signs shall be removed within five (5) days after the date of the exhibit, show, or event.
 - (3) No such sign shall be posted earlier than two (2) weeks before the occurrence of the event to which it relates. Signs shall be permitted for more than 60 days per year.
 - (4) Failure to remove such signs within the time prescribed shall result in the Town having the sign removed at the owner's expense.
- (i) Signs shall be removed when the business, enterprise, etc. advertised ceases to exist, or at the expiration date specified in the permit for erection; removal shall be the responsibility of the owner of the property on which the sign is located.
 - (j) No sign shall have moving parts or project any intermittent or flashing illumination.
 - (k) No sign shall be displayed which uses the words "Stop" or "Danger" or presents or implies the need or requirement of stopping or the existence of danger as part of an advertising sign.
 - (l) No sign shall be permitted which contains statements, words, or pictures of an obscene character.
 - (m) No signs shall be placed on rocks, tree, or on poles maintained by public utilities.
 - (n) All portable signs shall be limited as follows:
 - (1) Hot air balloons and searchlights are allowed for promotions only, not to exceed 72 hours in a year.
 - (2) Pennants and banners (with no words or advertising) are permitted for display periods not to exceed 14 days prior to an event, and not to exceed 30 days per year.
 - (3) One sandwich type (A-frame) sign is permitted per business on premises, subject to the following:
 - A. Each sign board face shall not exceed 12 sq. ft.
 - B. The total height is not to exceed 36".
 - C. The sign shall be located so as to not restrict sight distance below that is called for in the Town Road Ordinance.
 - D. The owner shall obtain a permit for the sign; however, the size of the sign will not count against the total signage allowed under Section 5-508(a)(2) of the Zoning Ordinance.

ARTICLE 6

SITE PLANS

Part 1	General Requirements	6-1
Part 2	Site Plan Preparation	6-2
Part 3	Critical Area Site Plan Preparation	6-5

6-100 GENERAL REQUIREMENTS

6-101 Applicability

Site plans, prepared and approved in accordance with the provisions of this Article, shall be required to assist Town administrative officials in the review of applications for Building Permits and to assure compliance with all applicable requirements of this Ordinance. No building permit or use and occupancy permit shall be issued for the construction, rehabilitation or use of any building or structure except in accordance with an approved site plan.

6-102 Developments and Uses Requiring a Site Plan

Site plans are divided into two categories;

- (a) Category 1 Site Plan Review.
All commercial and institutional developments, multi-family dwellings, senior housing projects, and attached dwelling units require Category 1 Site Plan Review.
- (b) Category 2 Site Plan Review.
Single family detached dwellings, bed and breakfast facilities, inns, boarding houses, accessory uses, and rehabilitation projects require Category 2 Site Plan Review. This Category is for projects with minor impact which require less information than for Category 1 projects and can be reviewed and approved in a shorter time period.

6-103 Processing Procedure

- (a) The applicant shall submit a completed application, the appropriate fee and the site plan to the Public Works/ Zoning Administrator (“the Administrator”).
- (b) The Administrator shall review the application for completeness and will refer the application to the appropriate individuals or agencies for review, comment and/or approval.
- (c) The Planning and Zoning Commission will review and take action on all Category 1 Site Plans.
- (d) For all Category 1 Site Plans submitted for review, the Planning and Zoning Commission shall:
 - (1) Submit written notice to the applicant by first class mail, such to be postmarked at least ten (10) days before the day of the meeting to discuss the site plan, and;

- (2) Shall submit written notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place and subject matter of the meeting to discuss the site plan, and the name of the applicant. Such notice shall be sent by first class mail and post marked not less than ten (10) days before the day of the meeting.
- (e) The Zoning Administrator will review and take action on all Category 2 Site Plans.
 - (1) When all review and approvals have been completed, the Zoning Administrator will sign the application and site plan to indicate completion of review and approval by the Town. No building permit shall be issued until this approval has been given and;
 - (2) Shall assure that the project is completed in conformance with the approved site plan before issuing a zoning and occupancy permit

6-104 Expiration and Revisions

- (a) Approval of a site plan submitted under the provisions of this Article shall expire one (1) year after the date of such approval unless a building permit has been obtained for construction in accordance with the site plan. The Planning and Zoning Commission may grant extension after review.
- (b) Any site plan may be revised in the same manner as originally approved, except revisions that are deemed to be minor by the Administrator and do not conflict with the provisions in Section 7-601 of this Article. Minor changes will be accepted in writing from the applicant for review and comment by appropriate agencies.

6-105 Bonding Requirements

Before the Administrator issues a zoning and occupancy permit, either all the work must be completed or the remaining work must be bonded. Completion bonds apply only to the construction of roads, driveway entrances, soil stabilization or landscaping and additional bonding requirements in Critical Areas.

6-106 Appeals

Any person aggrieved by any decision made under this Article may, within five (5) days of such decision, appeal to and have a determination made by the Board of Appeals. During the period of appeal, no building permits shall be issued.

6-200 SITE PLAN PREPARATION

6-201 Preparation of Site Plans

- (a) Site plans involving engineering, architecture, landscape architecture or land surveying shall be respectively certified by the appropriate engineer, architect, landscape architect or land surveyor authorized by the State of Maryland to practice as such.

- (b) Site plans shall be prepared to a scale of one-inch equals thirty feet (1"=30') or larger. The sheet shall be 24" by 36 or as specified by the Zoning Administrator." A site plan may be prepared in one or more sheets to show clearly the information required and to facilitate the review and approval of the plan.

6-202 Required Information on Category 1 Site Plans

All Category 1 Site Plans shall be submitted to the Administrator in three (3) legible copies. Category 1 Site Plans shall contain the following information:

- (a) The project name and the name, address and telephone number of the landowner and builder/developer.
- (b) The location, height, ground coverage and use of all structures.
- (c) For each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes.
- (d) The floor areas of all non-residential buildings and the proposed use of each.
- (e) The locations of recreational and other open spaces.
- (f) Renderings and architectural elevation drawings to scale illustrating the appearance of all buildings or structures upon development.
- (g) Calculations of building coverage, density, open space, numbers of parking spaces, and areas of land use.
- (h) All existing and proposed streets and easements, their names, numbers and widths; and existing and proposed utilities.
- (i) A landscaping scheme, including dimensions and distances and the location, size and description of all proposed landscape material as required.
- (j) Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
- (k) If the project is in the Critical Area, the project must also meet the Critical Area Plan requirements which are set forth in Section 6-401.
- (l) Location, type, size and height of fencing, retaining walls and screen planting.
- (m) For development of over 10,000 square feet gross floor area and for all commercial establishments having regular evening hours, the type, location and direction of all exterior lighting. Additionally, the lighting plan provided should demonstrate that the lighting will not interfere with drivers on adjacent roads, residents of nearby homes or others who would be bothered by the exterior lighting not directly focused on the property of the development.
- (n) A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required.

- (o) Sufficient information to show how the physical improvements associated with the proposed development interrelates with existing or proposed development of record on adjacent properties.
- (p) All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to the utility system.
- (q) Preliminary approval of stormwater management facilities from the Calvert County Department of Public Works indicating the proposed development complies with the County's Stormwater Management Ordinance. This shall include provisions for the adequate disposition of natural and storm water, indicating the location, size, type and grade of ditches, catch basins and pipes and connections to existing drainage system, and on-site water retention where deemed appropriate and necessary by Calvert County Stormwater Management Ordinances.
- (r) Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
- (s) The Planning and Zoning Commission may require a traffic study to analyze traffic impacts from the proposed development in order for the Commission to adequately judge the nature of the impacts from the development.

6-203 Required Information on Category 2 Site Plans

All Category 2 Site Plans shall be submitted to the Zoning Administrator in one (1) legible copy. Category 2 Site Plans shall contain the following information:

- (a) The project name and the name, address and telephone number of the landowner and builder/developer.
- (b) A scale drawing showing the location, height, ground coverage and use of all structures, including accessory structures. A plan and/or elevation view of the proposed structure(s) must be included. These drawings will illustrate the appearance of the structure/building upon completion.
- (c) If applicable, front, side and rear yard setbacks, as well as street access and easements.
- (d) If applicable, provisions for the adequate disposition of natural and storm water, indicating the location, size, type and grade of ditches, catch basins and pipes and connections to existing drainage system, and on-site water retention where deemed appropriate and necessary by the Administrator or the Administrator designee.
- (e) If applicable, provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
- (f) If applicable, show existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
- (g) Other information that may be required by the Administrator to assure compliance with all applicable regulations.

6-300 CRITICAL AREA SITE PLAN PREPARATION

6-301 Required Information on Site Plans in the Critical Area Overlay District

(a) General:

The requirements of this Section shall apply to all proposed multi-family dwellings, senior housing projects, industrial and commercial buildings and developments, and mobile home parks in the Critical Area Overlay District.

The purpose of the site plans to assure detailed compliance with applicable provisions of this Ordinance and the Critical Area Protection Program and to prescribe standards for the design and construction of site improvements. Development in the Critical Area requiring site plan approval shall be permitted only in accordance with all the specifications contained on an approved site plan, and shall not be undertaken until the site plan is approved and all the required construction permits have been obtained subsequent to such approval.

(b) Approving Authority:

- (1) Site plans for multi-family dwellings, senior housing projects, industrial and commercial buildings and developments, and mobile home parks shall be approved by the Planning and Zoning Commission as herein set forth.
- (2) Site plans for developments other than those referred to above, where required in this Ordinance, shall be prepared and submitted as described below and approved by the Planning and Zoning Commission.

(c) Information Required to be Included in the Site Plan:

- (1) An area or vicinity map at a scale of not smaller than 1" = 2,000 feet and showing such information as the names and numbers of adjoining roads, streams, bodies of water, railroads, subdivisions, election districts, or other landmarks sufficient to clearly identify the location of the property.
- (2) A boundary survey plat of the entire site at a scale not smaller than 1" = 100 feet unless otherwise specified by the Planning and Zoning Commission showing the following:
 - A. Existing topography at two (2) five (5) foot contour intervals. Datum shall be stated in all cases and a reference or benchmark described on the plat together with the elevation. Source of contours shall be stated on the plat, such as field run or aerial topography, etc. Interpolation of contours from USGS quadrangle maps will not be accepted.
 - B. Slopes in excess of fifteen (15%) percent;
 - C. Existing and proposed graded surface of the land;
 - D. Location of natural features such as streams, major ravines, drainage patterns, within the area to be disturbed by construction and the location of trees measuring greater than 12" in diameter to be retained;
 - E. Floodplain boundaries (100 year);

- F. Location and areal extent of soils as shown on the Calvert County Soil Survey. Wet soils, hydric soils and highly erodible soils shall be indicated
- (3) A detailed drawing showing:
- A. Location, proposed use, and height of all buildings and accessory structures (delineate all existing buildings and structures);
 - B. Location of all parking and loading areas with ingress and egress drives thereto;
 - C. Location of outdoor storage (if any);
 - D. Location and type of recreational facilities (if any);
 - E. Location of all existing or proposed site improvements, including storm drains, culverts, retaining walls, fences, stormwater management facilities as well as any sediment and erosion control structures, existing shore erosion control structures, their condition, and areas for proposed structural and non-structural controls, shown on the boundary survey plat, at a scale of at least 1" = 100 feet);
 - F. Description, method, and location of water supply and sewerage disposal facilities;
 - G. Location, size, and type of all signs;
 - H. The location, size and type of vehicular entrances to the site; and
 - I. The location of the Critical Area Overlay District Boundary, the Buffer and other buffer areas, open space areas, and forested areas;
 - J. The location of all Habitat Protection Areas;
 - K. The location of all contiguous forested areas adjacent to the site that are linked to forested areas on the development site, i.e., hedgerows, forest patches or other wildlife corridors;
 - L. The location of agricultural fields, barrens lands, pasture, etc.;
 - M. The location of tidal and non-tidal wetlands on the site;
 - N. The location of existing water-dependent facilities on and adjacent to the site, including the number of existing slips and moorings on the site;
 - O. The location and extent of existing and/or proposed erosion abatement approaches;
 - P. The known locations of the habitat of any threatened or endangered species of species in need of conservation on or adjacent to the site;
 - Q. A detailed drawing locating shore erosion abatement techniques to be included with the site plan.

- (4) Computations of:
- A. Total lot area;
 - B. Building floor area for each type of proposed use;
 - C. Building ground coverage (percentage);
 - D. Road area;
 - E. Number and area of off-street parking and loading spaces;
 - F. Total site area in the Critical Area;
 - G. Total man-caused impervious surfaces areas and the percentage of site these occupy;
 - H. Separate computations of the total acres of existing forest cover in the Buffer and in the Critical Area;
 - I. Proposed forest open space areas; and
 - J. Total area of the site that will be temporarily disturbed during development and the total area that will be permanently disturbed. "Disturbed" is defined as any activity occurring in an area which may result in the permanent loss of or damage to existing natural vegetation.
- (5) Commercial or Industrial uses must include:
- A. Specific uses proposed;
 - B. Maximum number of employees for whom buildings are designed;
 - C. Type of energy to be used for any manufacturing processes;
 - D. Type of wastes or by-products to be produced by any manufacturing process;
 - E. Proposed method of disposal of such wastes or by-products;
 - F. Location of outdoor lighting facilities; and
 - G. Other information as may be specified in the regulations for industrial or commercial uses in the Town of Chesapeake Beach Zoning Ordinance.
- (6) In addition to the information above, site plans shall be accompanied by the following:
- A. A Forest Management Plan including the comments of the Bay Watershed Forester (if applicable);
 - B. A Habitat Protection Plan including the comments of the Maryland Forest, Park and Wildlife Service (if applicable);

- C. A Stormwater Management Plan approved by Calvert County Department of Public Works and in compliance with its Stormwater Management Ordinance;
- D. A Sediment and Erosion Control Plan;
- E. A Planting Plan, as required; and
- F. An Environmental Assessment Report which describe how the proposed development addresses the goals and objectives or the Town of Chesapeake Beach Critical Area Protection Program. At a minimum the Environmental Assessment shall include:
 - i. A statement of existing conditions, e.g., the amount and types of forest cover, the amount and type of wetlands, a discussion of existing agriculture activities on the site, the soil types, the topography, etc.;
 - ii. A discussion of the proposed development project, including number and type of residential units, amount of impervious surfaces, proposed sewer treatment and water supply, acreage devoted to development, proposed open space and habitat protection areas;
 - iii. A discussion of the proposed development's impacts on water quality; and
 - iv. Documentation of all correspondence and findings.
- G. Completed checklist(s) as appropriate, from the Town of Chesapeake Beach Critical Area Protection Program.

(d) Procedure for Preparation:

- (1) 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.
- (2) All site plans shall clearly show the information required by this Section.
- (3) If such plans are prepared in more than one sheet, match lines shall clearly indicate where the several sheets join and an index sheet shall be required.
- (4) Every site plan shall show the name and address of the owner and developer, the north point, date, scale of the drawing, and the number of sheets. Five (5) clearly legible copies of all site plans shall be submitted to the Planning and Zoning Commission (which may require that additional copies be provided when necessary).

(e) Procedure for Processing:

- (1) Upon receipt of the site plan, the Planning and Zoning Commission shall conduct a review soliciting comments from other technical agencies, departments, agencies, and officials as the Planning and Zoning Commission may deem appropriate.
- (2) The site plan shall be approved if it meets the requirements of this Article, the other requirements of this Ordinance and all other Federal, State, and Town regulations and all necessary permits and approvals have been obtained.

- (3) The Planning and Zoning Commission shall approve, conditionally approve, or reject a site plan within sixty (60) days from the filing of the application.
 - (4) Notice of such action shall be given in writing to the applicant.
- (f) 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 and Zoning Commission or the Administrator, whichever is applicable.
 - (2) After construction has been completed, inspection of site improvements shall be made by those departments specified by the applicable requirements.
 - (3) For residential developments, mobile home parks and campgrounds, the approved site plan shall be recorded in the office of the Clerk of the Court. Prior to recording, a Public Works Agreement guaranteeing the construction of all required improvement shall be executed between the developer and the Town.
 - (4) The installation of improvements shall not bind the Town to accept such improvements or the maintenance; repair and operation thereof; requirements for said improvements shall be in addition to (and in lieu of) any other legal requirements.
- (g) Expiration and Extension:
- (1) Approval of site plans shall be for a one (1) year period and shall expire at the end of that period unless building construction has begun. Upon written request by the applicant, within ninety (90) days of the expiration of said approval, the Planning and Zoning Commission may give a one (1) year extension. Such request shall be acknowledged, and a decision rendered there upon, not more than thirty (30) days after filing of said request.

ARTICLE 7

ADMINISTRATION

Part 1	Zoning Administrator	7-1
Part 2	Enforcement and Interpretation	7-2
Part 3	Nonconforming Uses	7-4
Part 4	Amendments to This Ordinance	7-5
Part 5	Penalties for Violation	7-7

7-100 ZONING ADMINISTRATOR

7-101 Administration of Permitting Process (Revised 3/8/06)

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator (the “Administrator”) who shall be appointed by the Mayor and confirmed by the Town Council.

The Administrator shall have the following duties and powers:

- (a) Receive and examine all applications for Zoning Permits and other applications required by this Ordinance.
- (b) Refer all zoning permits and applications to construct or change the use of a building or structure in RPC Districts to the Planning Commission for review and approval. The Planning and Zoning Commission (“the Commission”) shall make its recommendations within forty-five (45) days after submission to it.
- (c) Refer zoning permit applications for the following purposes to the Commission for approval:
 - (1) To alter, extend, or change any nonconforming use;
 - (2) To construct or expand off-street parking areas of three (3) or more vehicles.
- (d) Issue permits only where there is compliance with the provisions of this Ordinance and with other Town ordinances. Permits for construction or uses requiring a special exception or variance shall be issued only upon order of the Board of Appeals
- (e) Receive applications for special exceptions and forward these applications to the Board of Appeals for action thereon.
- (f) Following refusal of a permit, to receive applications for interpretation, appeal, and variance and forward these applications to the Board of Appeals for action thereon.
- (g) Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- (h) Issue stop, cease, and desist orders, and orders in writing for correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders shall be served personally

or by certified mail upon persons, firms, or corporations deemed by the Administrator to be violating the terms of this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Administrator, and any person violating any such order shall be guilty of a violation of this Ordinance.

- (i) Institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation so as to prevent the occupancy of or use of any building, structure or land; or to prevent any illegal act, conduct, business, or use in or about such premises.
- (j) Revoke by order, a permit issued under a misstatement of fact or contrary to the law or the provisions of this Ordinance.
- (k) Record and file all applications for zoning permits or other permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- (l) Maintain a map or maps showing the current zoning classification of all land in the Town, including the Zoning Map and the Critical Area District Map and maintain records of growth allocation acres awarded and the amount remaining.
- (m) Upon the request of the Mayor or Town Council, the Commission, or the Board of Appeals, present to such bodies, facts, records, or reports which they may request to assist them in making decisions, or in any other matter.
- (n) Refer any zoning permit to the Commission for review and comment as the Administrator deems necessary and appropriate.
- (o) Review for completeness all applications for Category 1 site plans and submit completed applications to the Planning Commission for review and approval as provided for in Article 6 of this Ordinance.
- (p) Review and take action on all Category 2 Site Plans as provided for in Article 6 of this Ordinance.

7-200 ENFORCEMENT AND INTERPRETATION

7-201 Questions of Interpretation

- (a) It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrator and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Administrator, and that recourse from the decisions of the Board of Appeals shall be to the courts as provided by law and particularly by Article 66B, Title 2, Annotated Code of Maryland.
- (b) It is further the intent of this Ordinance that the duties of the Town Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance the Town Council shall have only the duties of:
 - (1) Considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law.

(2) Establishing a schedule of fees and charges as provided in Section 7-203 of this Ordinance.

7-203 Schedule of Fees, Charges and Expenses (Revised 6/30/04)

- (a) The Town Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning permits, appeals, variance, special exceptions, amendments, and other matters pertaining to this Ordinance.
- (b) The schedule of fees shall be posted in the offices of the Administrator and may be altered or amended only by the Town Council, upon recommendation of the Commission.
- (c) No permit, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses, have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals unless or until preliminary charges and fees have been paid in full.

7-202 Zoning Permit Required

No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a permit therefore, issued by the Administrator. No zoning permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals.

7-203 Application for Zoning Permit

All applications for zoning permits shall be accompanied by site plans complying with all the provisions of Article 6. The application shall include such other information as lawfully may be required by the Administrator, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

7-204 Expiration of Zoning Permit

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire, it shall be cancelled by the Administrator, and written notice thereof shall be given to the persons affected.

If the work described in any zoning permit has not been substantially completed within two (2) years of the date of issuance, unless work is satisfactorily proceeding thereof, said permit shall expire and be cancelled by the Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit has been obtained.

7-205 Construction and Use to be as Provided in Applications, Plans, and Zoning Permits

Zoning permits issued on the basis of site plans and applications approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 7-701 of this Article.

7-206 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

7-300 NONCONFORMING USES

7-301 Definition

- (a) Nonconforming Structure or Lot -- A structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the District in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this Ordinance and was lawful at the time it was established.
- (b) Nonconforming Use -- A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the District in which it is located, but which was in existence at the effective date of this Ordinance, and was lawful at the time it was established.

7-302 Continuation

The lawful use of any structure or land existing at the effective date of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance except as otherwise provided in this Article.

7-303 Alteration or Extension

- (a) A use of land or structure which does not conform to the regulations of Article 3 shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:
 - (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became non-conforming.
 - (2) Any increase in volume, area, or extent of the nonconforming use shall not exceed an aggregate of more than fifty (50%) percent during the life of the nonconformity.
- (b) A structure which does not conform to the regulations of this Ordinance other than those regulations found in Article 3 may be altered, reconstructed, or enlarged, provided that no such nonconformity is increased beyond its extent on the date that it became nonconforming, provided that if the use or structure also falls under paragraph (a) of this Section any change shall be subject to the provisions of that paragraph.

7-304 Restoration

Nothing in these regulations shall prevent the reconstruction or restoration of a nonconforming building or structure destroyed by fire, windstorm, flood, explosion, or act of a public enemy or accident, or prevents the continuance of the use thereof as it existed at the time of such destruction, subject to the following provisions:

- (a) The reconstructed structure or building shall not exceed the height, area, or volume of the damaged structure or building except as provided in Section 7-303; and
- (b) A zoning permit shall be obtained; and
- (c) Reconstruction shall begin within one (1) year after the date of damage and shall be carried on without interruption unless the Commission grants an extension upon formal application to that body.
- (d) An applicant may formally apply to the Planning Commission to extend the period of time as provided for in subsection (c) above, beyond one year. Upon review of the application the Planning Commission may approve such an extension provided the applicant shows to the Commission's satisfaction that bona fide progress toward reconstruction is underway and provided that the standards in subsections (a) and (b) above are met. No application for extension shall be approved that would extend the time for the initiation of reconstruction beyond two (2) years of the date of damage.

7-305 Abandonment

Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

7-306 Changes

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use.

7-307 Displacement

No nonconforming use shall be extended to displace a conforming use.

7-308 District Changes

Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District of a different classification, the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

7-400 **AMENDMENTS TO THIS ORDINANCE**

7-401 Power of Amendment

The Town Council may from time to time with the approval of the Critical Area Commission, amend the land use management classification of properties in the Critical Area District; exempt certain portions of the Critical Area District from the requirements relating to the Buffer and all buffer areas, or exclude portions of the Town's Critical Area from the Critical Area District. In addition, the Town Council shall review and propose any necessary amendments to the Critical Area District, as required, and to the land use management classifications at least every four (4) years.

All such amendments to the Critical Area District shall first be approved by the Critical Area Commission as provided in Subsection 8-1809 of the Natural Resources Article, Annotated Code of Maryland. The procedures and standards for Critical Area Commission approval of proposed amendments are those as set forth in Subsection 8-1809 of the Natural Resources Article, Annotated Code of Maryland.

7-402 Who May Initiate

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Town Council on its own motion, by the Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

- (a) Proposals Originated by the Town Council - The Town Council shall refer every proposed amendment, supplement, change, modification, or repeal originated by the Council to the Commission. Within thirty (30) days of the submission of said proposal, the Commission shall submit to the Town Council a report containing the Commission's recommendations, including any additions or modifications to the original proposal.
- (b) Proposals Originated by the Commission - The Commission may at any time transmit to the Town Council any proposal for the amendment, supplement, change, modification, or repeal of this Ordinance.
- (c) Proposals Originated by a Citizen's Petition - Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modification shall be submitted on forms provided therefore to the Town Clerk. On receipt of said petition, the Town Clerk shall transmit a copy of the petition to the Commission. Within thirty (30) days following a public hearing as provided in Section 7-403, the Commission shall submit a report to the Mayor and Town Council containing the Commission's recommendations, including any additions or modifications of the original proposal. Failure to submit a report within thirty (30) days shall be deemed approval of the petition by the Commission. The Town Council shall defer action on a petition until the recommendations of the Commission are received and reviewed or until thirty (30) days have elapsed, whichever may occur first.

7-403 Public Hearing and Notice

No such amendment, supplement, change, modification, or repeal shall become effective until after a public hearing by the Town Council in relation thereto at which parties in interest and citizens shall have the opportunity to be heard. Notice shall be given as follows:

- (a) At least fifteen (15) days prior to the date fixed for public hearing, publish a notice containing the name of the applicant; the date, time, and place fixed for the hearing; and the general nature of such hearing in at least one (1) newspaper of general circulation in the Town.

- (b) When such hearing concerns a zoning map change, post in a conspicuous place on the property involved a notice of pending action containing the same information as in (a) above, such posting to take place at least fifteen (15) days prior to the date fixed for public hearing.
- (c) When such hearing concerns a zoning map change, give written notice of the time and place of such hearing, sent by registered mail to the applicant and to the owners of property contiguous to or opposite the property affected.

7-404 Fees

All applicants for zoning amendments shall, at the time of making application, pay to the Town Clerk for use of the Town, a fee in accordance with a Fee Schedule adopted by resolution of the Town Council upon enactment of this Ordinance, or as such schedule may be amended by resolution of the Town Council.

7-500 PENALTIES FOR VIOLATION

7-501 Fines and Penalties

- (a) Except for violations of Part 4 and Part 5 of Article 4, Chapter 50, which relate to the Critical Area, the violation of all provisions of the zoning ordinance shall constitute a municipal infraction and the penalties for violating said provisions shall be provided by this Section. All citations for violations subject to this Section shall be issued by the Zoning Administrator, in accordance with the provisions of Md. Code Ann. Art. 23 A §3. A person shall violate the provisions of the zoning ordinance if they are the owner of a property upon which a condition exists that is in violation of the zoning ordinance or if the person participates in acts which violate the zoning ordinance (whether as an owner, tenant, contractor, or agent of the owner), but excludes those acting in an official capacity on behalf of the Town.
- (b) The violation of any provision of the zoning ordinance for which a penalty is not provided in subsection (c) below shall be subject to a fine of \$200.00.
- (c) Violations of the following provisions shall subject the violator to the following fines:

(1) Section 1-304	Fine of \$500
(2) Section 3-301	Fine of \$400
(3) Section 3-403(b)	Fine of \$400
(4) Section 5-107	Fine of \$300
(5) Section 5-201(d)	Fine of \$500
(6) Section 5-403	Fine of \$500
(7) Section 5-406	Fine of \$500
(8) Section 7-101(h)	Fine of \$1,000
(9) Section 7-303	Fine of \$500
- (d) Whenever a person violates the provisions of the zoning ordinance, the Administrator may notify the person in writing of the violation. The Administrator may provide said notice in addition to the citations for a municipal infraction provided for in subsection (a) or the Administrator may provide the notice of violation prior to issuing a citation. The notice shall state the nature of the violation, the code section being violated, and state that the failure to commence the correction of the violation or violations may result in legal action, the person being cited for a municipal infraction, or any other form of remedy authorized by the zoning ordinance and the laws of

Maryland. If the person given notice of a violation under this subsection (d) fails to commence the correction or abatement of all violations within 15 days, and/or fails to complete the correction or abatement of the violations within 30 days, then each day that the violation continues thereafter shall constitute a separate offense, punishable by a fine as set forth in subsection (b) or (c).

- (e) Nothing in this Section 7-501 shall be construed as a predicate or condition to the Town exercising the remedies provided for in Section 7-502 or Section 7-503. The imposition of fines or the giving of a notice of violation provided by this Section 7-501 shall not be construed as a replacement of, or waiver of, the right of the Town to exercise or institute actions to seek the remedies provided for in Section 7-502 or Section 7-503.

7-502 Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the appropriate authorities of the Town of Chesapeake Beach, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation; to prevent any illegal act, conduct, business, or use in or about such premises. The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

7-503 Critical Area Fines and Penalties (Added 5/11/05)

(a) Except as set forth in subsections (b) through (i) hereof, the violation of any provision of Part 4, Critical Area Overlay District, and Part 5, Growth Allocation Floating Districts, of Article 4 of this Ordinance, shall be a civil code violation and, upon conviction thereof, the offender shall be subject to a fine in the amount of \$100.00.

(b) Any person or persons who engage in development within the Buffer without a valid zoning permit and that is in violation of Section 4-404(a) of this Ordinance, shall be guilty of a civil code violation. If the person or persons violating Section 4-404(a) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$600. If the person or persons violating Section 4-404(a) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$3,000.

(c) Any person or persons who remove vegetation and/or trees within the Buffer without a valid zoning permit and that is in violation of Section 4-404(e) of this Ordinance, shall be guilty of a civil code violation. If the person or persons violating Section 4-404(e) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating Section 4-404(e) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. If the area from which vegetation was removed exceeds 100 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.

(d) Any person or persons who alter the slope of the land surface within the Buffer, without a valid grading permit and that is in violation of Section 4-404(e) of this Ordinance, shall be guilty of a civil code violation. If the person or persons violating Section 4-404(e) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating Section 4-404(e) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. If the area of slope, which was altered, exceeds 100 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.

(e) Any person or persons who violate the provisions of Section 4-407(a), Development Standards in Buffer Exemption Area, of this Ordinance and does so without a valid zoning permit, shall be guilty of a civil code violation. If the person or persons violating Section 4-407(a) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$200. If the person or persons violating Section 4-407(a) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000.

(f) Any person or persons who cuts or clears trees in a forest or developed woodland (as defined in Section 11-301) in a Limited Development Area (LDA) in violation of the provisions of Section 4-410(b)(5)(F)(ii) of this Ordinance, and does so without a valid grading plan and/or permit, shall be guilty of a civil code violation. If the person or persons violating Section 4-410(b)(5)(F)(ii) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$600. If the person or persons violating Section 4-410(b)(5)(F)(ii) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$3,000. All fines imposed in this subsection (f) are in supplementation of the mitigation requirements of Section 4-410(b)(5)(F)(ii) and shall not be inferred as a substitute for the mitigation requirements contained therein.

(g) Any person or persons who engages in development on slopes greater than fifteen percent in a Limited Development Area (LDA) in violation of the provisions of Section 4-410(b)(5)(G) of this Ordinance, and does so without a valid grading plan and/or permit, shall be guilty of a civil code violation. If the person or persons violating Section 4-410(b)(5)(G) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$600. If the person or persons violating Section 4-410(b)(5)(G) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$3,000. If the area of slope, which was altered, exceeds 200 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.

(h) Any person or persons who cuts or clears trees in a forest or developed woodland (as defined in Section 11-301) in a Resource Conservation Area (RCA) in violation of the provisions of Section 4-410(e) of this Ordinance to the extent said section adopts by reference Section 4-410(b)(5)(F)(ii) as being applicable to RCA districts, and does so without a valid grading permit, shall be guilty of a civil code violation. If the person or persons violating Section 4-410(e) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating Section 4-410(e) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. All fines imposed in this subsection (h) are in supplementation of the mitigation requirements of Section 4-410(b)(5)(F)(ii) and shall not be inferred as a substitute for the mitigation requirements contained therein.

(i) Any person or persons who engages in development on slopes greater than fifteen percent in a Resource Conservation Area (RCA) in violation of the provisions of Section 4-410(e) of this Ordinance to the extent said section adopts by reference Section 4-410(b)(5)(G) as being applicable to the RCA districts, and does so without a valid grading plan and/or permit, shall be guilty of a civil code violation. If the person or persons violating Section 4-410(e) undertook acts which demonstrate that the violation was a mistake or unintentional violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$1,000. If the person or persons violating Section 4-410(e) undertook acts which demonstrate that the violation was an intentional, willful violation, then upon conviction thereof, the offender shall be subject to a fine in the amount of \$5,000. If the area of slope, which was altered, exceeds 200 square feet, there shall be a rebuttable presumption that the violation was intentional and willful.

(j) Any person or persons who engage in a civil code violation described in subsections (a) through (i) above and said violation(s) occur after a refusal by the Administrator to issue a permit for the specific actions taken, or which occur in violation of a stop work order or cease and desist order issued by the Administrator, shall, upon conviction thereof, be subject to a fine in the amount of \$10,000, regardless of whether the actions are a mistake, unintentional, intentional or willful.

(k) The imposition of fines for civil code infractions shall be supplemental to, and not as a substitute for, any and all development requirements imposed by the Zoning Ordinance, including but not limited to any requirements for afforestation, reforestation, mitigation, planting, construction of stormwater management facilities, and site design limitations, including such requirements that are imposed only upon a violation of the provisions of this Ordinance.

(l) In addition to the civil penalties set forth in subsections (a) through (j), and not as a substitution for said civil penalties, the Administrator may seek the abatement of the conditions which are the basis of the violation. If required, an order of abatement shall require the restoration of the disturbed area to the conditions existing prior to the offending disturbance and may include an order for the removal of any structures within said area. Any abatement shall be undertaken in a manner which is consistent with the critical area requirements of the Natural Resources Article, COMAR, and the Town’s Local Critical Area Program found in this Ordinance.

ARTICLE 8

PLANNING COMMISSION AND BOARD OF APPEALS

Part 1	Planning Commission	8-1
Part 23	Board of Appeals	8-3

8-100 PLANNING COMMISSION

8-101 Purpose

The Planning Commission shall advise the Town Council on all matters relating to the orderly growth of the Town of Chesapeake Beach. More specifically, the Planning Commission, with the advice and assistance of the Town staff and/or retained town planning experts, shall:

- (a) Prepare and recommend a Comprehensive Plan for the Town of Chesapeake Beach, and review and update said plan at least once every six (6) years.
- (b) Prepare and recommend amendments to the Zoning Ordinance.
- (c) Review and make recommendations on amendments to the Zoning Map.
- (d) Prepare and recommend amendments to the Subdivision Ordinance.
- (e) Review proposed public facilities for consistency with the Comprehensive Plan in accordance with the provisions of Article 66B, Section 3.08, Code of Maryland.
- (f) Review and approve Category 1 Site Plans in accordance with the provisions of Article 6.
- (g) Review and approve certain parking and landscaping modifications according to the procedures in Article 5.
- (h) Review and approve subdivision plats.
- (i) Prepare and adopt an annual report in accordance with the provisions of Article 66B, Section 3.09, Code of Maryland.
- (j) Conduct other activities as set forth in this Ordinance and as provided for by Article 66B of the Annotated Code of Maryland.

8-102 Authority and Establishment

The Planning Commission was established, pursuant to the provisions of Article 66B, Section 3.01, Code of Maryland. The official title of this Commission shall be the "Town of Chesapeake Beach Planning and Zoning Commission".

8-103 Membership

- (a) The Planning Commission shall consist of seven (7) members, who shall be qualified voters and/or property owners in the Town. The majority of the members shall be residents of the Town. All members shall be appointed by the Mayor and confirmed by the Town Council.
- (b) Members shall be appointed for five (5) year terms and terms of appointment shall be staggered.
- (c) Any vacancy in membership for an unexpired term shall be filled by appointment by the Mayor and approved by the Council.
- (d) Any appointed member may be removed, after a public hearing, by the Town Council.

8-104 Officers

- (a) The Commission shall elect a Chairman from one of the appointed members and create and fill such other of its offices as it may determine.
- (b) The term of the Chairman shall be one (1) year, with eligibility for reelection.

8-105 Meetings

- (a) Regular meetings of the Planning Commission are held every month at a time and place to be designated by resolution by the Commission.
- (b) Special meeting of the Commission may be called by the Chairman with proper notice to Commission members.
- (c) All Commission meetings shall be open to the public.
- (d) All public hearings conducted by the Planning Commission shall be in accordance with the provisions of Section 7-403.
- (e) Three of the membership of the Commission shall constitute a quorum. Three affirmative votes shall be necessary to vary any provisions of the Ordinance or to modify any orders of the Zoning Officer.
- (f) No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.

8-106 Records

The Planning Commission shall keep minutes of all its proceedings showing evidence presented, findings of fact by the Commission, and the vote of each member upon each question, or if absent or failing to vote, such fact. These minutes shall be a public record.

Part 2: BOARD OF APPEALS

8-201 Establishment of Board

In order that the objectives of this Ordinance may be more fully and equitably achieved and a means for competent interpretation of this Ordinance provided, there is established a Board of Appeals ("The Board") for the Town.

8-202 Membership, Terms of Office

The Board shall consist of five (5) members. The terms of office of the members shall be three (3) years. Members shall be appointed by the Mayor, confirmed by the Town Council, and removable for cause upon written charges and after public hearing. The Mayor shall designate one (1) alternate member for the Board who may be empowered to sit on the Board in the absence of any member of the Board.

8-203 Procedures, Meetings, Records, and Decisions – (Revised 3/8/06)

- (a) Procedures - The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules in accordance with the provisions of Article 66B of the Annotated Code of Maryland and this Ordinance for the conduct of its affairs.
- (b) Meetings - Meetings of the Board shall be held at 7:00 p.m. on the first Tuesday of each month, or if deemed necessary by the chairman, at such additional days and times as may be needed. At each regular meeting of the Board, the Board shall conduct hearings on those applications scheduled to be heard in accordance with Section 8-204. The Board is not required to meet if no applications are pending prior to the due date for submission. The chairman or his designee may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, unless closed pursuant to the Maryland Open Meetings Act or closed for executive session to deliberate on the matter. All votes on questions of procedure or on the merits of the case shall at all times be open to the public. Three members present shall constitute a quorum.
- (c) Records and Decisions - The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions or decisions of the Board shall be taken by resolution in which three members, present during the proceedings, must concur. Each resolution shall contain a statement of the grounds and any findings forming the basis of such action or decision. The Board shall notify the Mayor and Town Council, Planning Commission, and Zoning Administrator of all decisions and resolutions.
- (d) Testimony Offered by Non-Applicants. Testimony provided by any person who is not an applicant, expert offered by the applicant as part of applicant's presentation, or agent of the applicant shall be provided in accordance with this subsection (d). All persons wishing to testify must first sign in on a form to be provided by the clerk to the Board. Said form shall provide the name, address, phone number of the person who wishes to testify. In addition, the form shall provide an election, to be made by the person wishing to testify, as to whether they wish to waive being treated as a party to the proceeding under Maryland law, entitling them to notice any subsequent judicial action in the Circuit Court with respect to the proceeding and that a waiver of their status as a party will mean that they will not get notice of any subsequent judicial action related to the proceeding. If the person indicates that he or she

wishes to waive being treated as a party to the proceeding, the Board shall not thereafter treat the person as a party to the proceeding. Nothing in this subsection (d) prevents the Board from accepting into the record correspondence or other documents submitted for inclusion in the record without personal testimony, so long as the person submitting such correspondence or documents provides their name and address. Parties submitting correspondence or documents but not attending the hearing to testify shall be considered parties to the proceeding.

8-204 Receipt of Applications, Notice of Hearings – (Revised 3/8/06)

Applications for a special exception, variance, or appeal from alleged error of the Zoning Administrator or the Planning & Zoning Commission acting in an administrative capacity, may be accepted at any time. Those applications received on or before the 15th day of the month (the “cutoff date”) shall be scheduled for a hearing at the regular Board of Appeals meeting date in the second month following the cutoff date, unless the chairman of the Board of Appeals calls a special meeting on a particular application or applications. All required elements of the application, including any required comment letters from other agencies (including the Critical Area Commission) must be submitted with the application for a hearing to be scheduled. Upon a hearing being scheduled, notice of the hearing shall be as follows:

- (a) At least fifteen (15) days prior to the date fixed for public hearing publish a notice containing the name of the applicant or appellant, the date, time, and place fixed for the hearing, and a brief statement of the special exception sought by the applicant, or the error alleged by the appellant, or of the variance or other question which is subject to appeal, in at least one (1) newspaper of general circulation within the Town.
- (b) Post, in a conspicuous place on the property involved, a notice of pending action containing the same information as in (a) above, such posting to take place at least fifteen (15) days prior to the date fixed for the public hearing.
- (c) Give written notice of the time and place of such hearing sent by registered mail to the applicant or appellant and to the owners of property contiguous to or opposite the property affected.
- (d) At least thirty (30) days before the date of hearing on an application for a special exception, interpretation or variance, the secretary of the Board shall transmit a copy of said application to the Planning Commission together with a notice of the aforesaid hearing.

8-205 Powers and Duties - Interpretation (Revised 3/8/06)

Upon appeal from a decision of the Administrator or the Planning & Zoning Commission when the Commission is acting in an administrative capacity as defined by Maryland law, the Board shall decide any question: (1) involving the interpretation of any provisions of the zoning ordinance, including determination of the exact location of any District boundary if there is uncertainty with respect thereto; and (2) where it is alleged there is an error in any order, requirement, decision or determination, including any order requiring an alleged violation to stop, cease, and desist, made by the Administrator in the enforcement of this Ordinance or by the Planning & Zoning Commission.

8-206 Powers and Duties - Variances

- (a) Upon appeal from a decision by the Administrator, the Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the

case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions whereby such strict application would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land or building. In addition, due to the special features of a site or other circumstances where a literal enforcement of provisions relating to the Critical Area District would result in unwarranted hardship to a property owner, the Board of Appeals may grant a variance from the provisions of this Ordinance or the Subdivision Regulations applicable to the Critical Area District.

- (b) In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- (c) No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the following requirements and standards are satisfied:
 - (1) That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (2) That the granting of the variance will not permit the existence within a District of any use, which is not permitted in that District.
 - (3) That there are special circumstances or conditions fully described in the findings, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict interpretation of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
 - (4) That there exists unnecessary hardship. If the hardship is general, that is shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of an attack on the validity of the Ordinance.
 - (5) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, the hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without the knowledge of restrictions; it must result from the application of the Ordinance; it must be suffered directly by the property in question; and evidence of greater profitability and of variances granted under similar circumstances shall not be considered.
- (d) **(Revised 5/11/05).** A variance from the provisions of this Ordinance relating to the Critical Area District shall not be granted unless, in addition to meeting the requirements of subsection (c) above, the decision is based on all of the following criteria being met:
 - (1) That special conditions or circumstances exist that are peculiar to the land or structure within the Town's Critical Area District that would result in an unwarranted hardship to the applicant. 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) That a literal interpretation of the Town's local Critical Area Program and this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area District.
 - (3) 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 Critical Area District.
 - (4) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be in harmony with the general spirit and intent of the Town Critical Area Protection Program, this Ordinance, Maryland's Critical Area law, and COMAR regulations.
- (e) **(Revised 5/11/05).** A variance from the following provisions of this Ordinance relating to the Critical Area District shall be subject to the following additional procedures and standards.
- (1) A completed application form must be submitted to the Town with a copy to the Critical Area Commission that demonstrates the applicability of the criteria in (d) above. The board shall conduct a public hearing in accordance with Section 8-204 hereof only after receiving Critical Area Commission staff response to the application, which response shall be automatically admitted as part of the record.
 - (2) In considering an application for a variance, the Board 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 the Town's Local Critical Area Protection Program.
 - (3) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, the Board may consider that fact.
 - (4) An applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in subsection (e)(2) above.
 - (5) Based on competent and substantial evidence, the Board shall make written findings as to whether the applicant has overcome the presumption of nonconformance established in subsection (e)(2) above.
 - (6) With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by the:
 - (A) The applicant;
 - (B) The Town staff or any other government agency; or
 - (C) Any other person or source deemed appropriate by the Board.
- (f) In granting the variance, the Board may prescribe such conditions and safeguards, as it deems appropriate that comply with the intent of the Town's Zoning Ordinance as a whole, and the Town of Chesapeake Beach Critical Area Program. Violations of such

conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable in accordance with the provisions for violations.

8-207 Actions of the Board in Exercising Powers Concerning Appeals

In exercising the above mentioned powers concerning appeals, the Board may, in conformity with law and the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer of whom the appeal is taken.

8-208 Time limitations on Board Approvals

A decision of the Board permitting the erection or alteration of a building shall be valid for a period of one (1) year, unless a zoning permit for such erection or alteration is obtained within this period and the erection or alteration proceeds to completion in accordance with the terms of the decision. No decision of the Board permitting the use of a building or land shall be valid for a period longer than one (1) year, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning permit for such erection or alteration is obtained within said period, and such erection or alteration proceeds to completion in accordance with the terms of the decision.

8-209 Who May Appeal to the Board

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decisions of the Administrator.

8-210 Rules and Procedures for Filing Interpretation and Variance Appeals and Special Exception Applications

- (a) General rules and procedures for appeals and applications:
- (1) Any appeal shall be made by filing the same with the Administrator within thirty (30) days after the date of the Administrator's decision.
 - (2) All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
 - (3) All appeals and applications shall refer to the specific provisions of the Ordinance involved.
 - (4) All appeals and applications shall set forth names and addresses of all adjoining property owners including those across the streets from the subject property.
 - (5) Variance Appeals and Special Exception Applications may not be filed which request the identical relief, related to the same property (regardless of who filed the appeal or application), which was requested in a previous appeal or application, if the previous appeal or application was filed within the previous 365 days. Upon good cause shown, the Board of Appeals may waive this time limitation of this subsection (5) upon a written request submitted with a new application, so long as all applicable fees are paid for the new application. Fees collected for the new application shall not be refundable if the Board of Appeals turns down the request for a waiver. **(Added 3/8/06)**
- (b) Interpretation Appeals. Appeals concerning the interpretation of any provisions of this Ordinance shall exactly set forth the interpretation that is claimed.
- (c) Variance Appeals. Appeals for variance from the strict application of this Ordinance shall include the zoning permit application denied by the Administrator together with a statement with any supporting data regarding the requirements listed in Section 8-206.
- (d) Special Exception Applications. Applications for special exceptions shall include a zoning permit application with all information required therein and a statement with any supporting data regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.

8-211 Review by the Planning Commission on Applications for Special Exceptions, Variances and Interpretations

The Board may request an advisory opinion from the Planning Commission. If an advisory opinion is requested from the Commission regarding special exceptions, variances and interpretations, the opinion shall be rendered within thirty (30) days after submission to it.

8-212 Decisions by the Board

Decisions by the Board on special exceptions, variances, and interpretation appeals shall be rendered within one hundred twenty (120) calendar days of the hearing on said exception, variance or interpretation, unless a later date is mutually agreed upon by the Board and applicant.

8-213 Appeal to Court

Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer of the Town, or any officer, department, board, bureau of the Town, may appeal the same to the circuit court of Calvert County.

8-214 Annual Review of Rules and Procedures

The Board of Appeals during its first scheduled meeting in January shall annually review its rules and procedures and may amend them as necessary.

ARTICLE 9

BOARD OF PORT WARDENS

Part 1	Establishment of Board	9-1
Part 2	Membership, Terms of Office	9-1
Part 3	Powers and Duties	9-1
Part 4	Rules and Regulations	9-2
Part 5	Appeals to Town Council	9-2
Part 6	Violations	9-2

9-100 ESTABLISHMENT OF BOARD

9-101 Establishment of Board of Port Wardens

In order to provide for the orderly development, control and management of the placement, erection, and construction of structures and to provide for safe harbors, free of congestion and navigational hazards within or on the waters, within the municipal corporate limits of the Town of Chesapeake Beach, there is established a Board of Port Wardens.

9-200 MEMBERSHIP, TERMS OF OFFICE

9-102 Membership, Terms of Office

The Board of Port Wardens shall consist of three (3) members. The terms of office of the members shall be three (3) years. Members shall be appointed by the Mayor, confirmed by a favorable vote of five-sixths of the entire Town Council, and removable for cause upon written charges and after public hearing. The Mayor shall designate one (1) alternate member for the Board of Port Wardens who may be empowered to sit on the Board of Port Wardens in the absence of any member of the Board of Port Wardens.

9-300 POWERS AND DUTIES

9-103 Powers and Duties

- (a) The Board of Port Wardens shall have the power to regulate the placement, erection and construction of structures or other barriers within or on the waters of the Town, including but not limited to the issuing of licenses to create or build wharves, marinas, community and private piers and the issuing of permits for mooring piles, floating wharves, buoys, bulkheads or anchors, taking into account the present and proposed uses, and the effect of present and proposed uses on marine life, wildlife, conservation, water pollution, erosion, navigational hazards, the effect of the proposed use on congestion within the waters, the effect on other riparian property owners, and the present and projected needs for any proposed commercial or industrial use.

- (b) The Board of Port Wardens shall have the power to regulate the materials and construction for the aforesaid improvements and to make certain that any improvements within or on the waters of the Town do not render the navigation too close and confined. This provision in no way intends to affect or conflict with any zoning power otherwise provided for.
- (c) The Board of Port Wardens shall have the power to regulate the removal of any earth or other materials for the purpose of building any structure within or on the waters of the Town, including any maintenance dredging and modification of the natural shoreline and to regulate the placement of any dredge materials in the Town's permanent spoil site facility.
- (d) The Board of Port Wardens shall have the power to provide for safe harbors, free of congestion and navigational hazards, to provide benefit to the citizens of the Town by protecting marine life and wildlife, and to avoid water pollution and erosion within or on the waters of the Town. This provision in no way intends to affect or conflict with any other Federal or State law, rule or regulation with respect to navigation.

9-400 RULES AND REGULATIONS

9-104 Rules and Regulations

The Board of Port Wardens shall adopt such reasonable rules and regulations, including permit or license fees, as are necessary in furtherance of the this Article; provided, however, that all such rules, regulations, and fees shall be approved by the Town Council of Chesapeake Beach.

9-500 APPEALS TO TOWN COUNCIL

9-105 Appeal to Town Council

In all differences that arise between any aggrieved party and the Board of Port Wardens concerning any decision of the Board of Port Wardens, an appeal may be taken to the Town Council of Chesapeake Beach. Any appeal shall be made by filing the same with the Town Council of Chesapeake Beach within thirty (30) days after the date of the Board of Port Warden's decision.

9-600 VIOLATIONS

9-105 Violations

Any person violating any of the provisions of this Article shall be subject to prosecution for a municipal infraction punishable by five hundred dollars (\$500.00), unless doubled, as provided in Section C-504 of the Charter of Chesapeake Beach, Maryland and a fine of two hundred fifty dollars (\$250.00) for each subsequent violation.

ARTICLE 10

FOREST CONSERVATION

Part 1	General	10-1
Part 2	Implementation	10-4
Part 3	Definitions	10-16

10-100 GENERAL

10-101 Purpose

The purpose of this Article is to prohibit certain development projects from cutting or clearing certain forests within the Town of Chesapeake Beach unless a forest stand delineation and a forest conservation plan are in effect. The Town Council has determined that to meet the requirements of Natural Resources Article, Sec. 5-1601: 5-1612, Annotated Code of Maryland, the provisions of this Article must be enacted.

10-102 Applicability

Except as provided in Section 10-103, this Article applies to:

- (a) Person making application for subdivision, project plan, grading, or sediment control approval on units of land 40,000 square feet or greater.
- (b) A public utility not exempt under Subsection 10-103(e) and Subsection 10-103(f)
- (c) A unit of county or municipal government, including a public utility or public works project, making application for a subdivision, project plan, grading, or sediment control approval on areas 40,000 square feet or greater.

10-103 Exemptions

The following are exempt from the requirements of this Article:

- (a) Highway construction activities under Natural Resources Article, Sec. 5-103, Annotated Code of Maryland.
- (b) Areas governed by the Town of Chesapeake Beach Critical Area Program.
- (c) The cutting or clearing of public utility rights-of-way licensed under Article 78, Sec. 54A and 54B or Sec. 54-1, Annotated Code of Maryland or land for electric generating stations licensed under Article 78, Sec. 54A and 54B or Sec. 54-1, Annotated Code of Maryland, if:
 - (1) Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, Sec. 5-1603(f), Annotated Code of Maryland; and

- (2) Cutting or clearing of the forest is conducted to minimize the loss of forest.
- (d) Routine maintenance or emergency repairs of public utility rights-of-way licensed under Article 78, Sec. 54A and 54B or Sec. 54-1, Annotated Code of Maryland,
- (e) Except for a public utility subject to Subsection 10-103(d) of this Article, routine maintenance or emergency repairs of a public utility right-of-way if:
 - (1) The right-of-way existed before the effective date of this Article; or
 - (2) The right-of-way's initial construction was approved under this Article.
- (f) An activity conducted on an existing single lot of any size if the activity:
 - (1) Does not result in the cumulative cutting, clearing, or grading of more than 40,000 square feet of forest;
 - (2) Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this Article; and
 - (3) Is the subject of a declaration of intent filed with the Planning and Zoning Commission, as provided for in Section 10-104 of this Article, stating that the lot will not be the subject of a regulated activity within five (5) years of the cutting, clearing, or grading of forest.
- (g) An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child or a grandchild of the owner, if the activity:
 - (1) Does not result in the cutting, clearing, or grading of more than 40,000 square feet of forest; and
 - (2) Is the subject of a declaration of intent filed with the Planning and Zoning Commission, as provided for in Section 10-104 of the Article, which states that transfer of ownership may result in a loss of exemption.
- (h) A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:
 - (1) The transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and
 - (2) Both the grantor and grantee file a declaration of intent, as provided for in 10-104 of this Article.
- (i) Residential Planned Development subdivisions in which no afforestation or reforestation is necessary and over fifty (50%) percent of the parcel is maintained in designated open space and all forested priority "A" areas as designated by intermittent and perennial streams and their buffers, slopes over 25 (25%) percent, hydric soils, soils with a "K" value greater than 0.35 on slopes of fifteen (15%) percent or more or the 100 year floodplain are retained in forest except unavoidable crossings for a road (not driveway access).
- (j) Agricultural activities not resulting in a change in land use category, including agricultural support building and other related structures built using accepted best management practices, except that a person who is engaging in an agricultural activity

clearing 40,000 square feet or greater of forest within a 1-year period may not receive an agricultural exemption unless the person files a declaration of intent as provided for in Section 10-104 below which includes:

- (1) A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five (5) years from the date of the declaration, and
 - (2) A sketch map of the property, which shows the area to be cleared.
- (k) Commercial logging and timber harvesting operations, including harvesting subject to the forest conservation and management program under the Tax-Property Article, subsection 8-211, Annotated Code of Maryland (Appendix B.4, CCFCP), that are completed:
- (1) Before July 1, 1991; or
 - (2) On or after July 1, 1991 on property which:
 - A. Has not been the subject of an application for a grading permit for development within 5 years after logging or timber harvesting operation, and after which time the property shall be subject to the forest conservation regulations, and
 - B. Is the subject of a declaration of intent as provided for in Section 10-104 below which includes a sketch map of the property showing the area to be harvested;
- (l) A preliminary plan of subdivision or a grading or sediment control permit approved before January 1, 1991.

10-104 Declaration of Intent

- (a) The purpose of the declaration of intent is to verify that the proposed activity is exempt under Natural Resources Article, Sec. 5-103 and 5-1601: 5-1612, Annotated Code of Maryland and this Article.
- (b) A person seeking an exemption under Subsections 103(f)-(i) and (k) of this Article must file a declaration of intent with the Planning and Zoning Commission.
- (c) The existence of a declaration of intent does not preclude:
 - (1) An exempted activity on the property subject to a declaration of intent, if the activity:
 - A. Does not conflict with the purpose of any existing declaration of intent, and
 - B. Complies with the applicable requirements for an exempted activity;
 - (2) A regulated activity on the area covered by the declaration of intent, if the activity occurs within 5 years of the effective date of the declaration of intent, in which case:
 - A. There must be an immediate loss of exemption, or

- B. There may be a noncompliance action taken by the Town, as appropriate, under this Article; or
- (3) A regulated activity on that area of the property not covered under the declaration of intent if the requirements of the Article are satisfied.
- (d) The Planning and Zoning Commission may require a person failing to file a declaration of intent or found in noncompliance with a declaration of intent to:
 - (1) Meet the retention, afforestation and reforestation requirements established in this Article;
 - (2) Pay a noncompliance fee of 30 cents per square foot of forest cut or cleared under the declaration of intent;
 - (3) Be subject to other enforcement actions appropriate under Natural Resources Article, Sec. 5-1601: 5-1612, Annotated Code of Maryland and this Article; or
 - (4) File a declaration of intent with the Planning and Zoning Commission.
- (e) In its determination of appropriate enforcement action, the Planning and Zoning Commission may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this Article.
- (f) The declaration of intent is effective for 5 years.

10-105 General Requirements

- (a) Unless exempt as provided for in Section 10-103 above, a person making application for subdivision or project plan approval, a grading permit, or a sediment control permit for an area of land of 40,000 square feet or greater must:
 - (1) Submit to the Planning and Zoning Commission a forest stand delineation and a forest conservation plan for the lot or parcel on which the development is located; and
 - (2) Use methods approved by the Planning and Zoning Commission, as provided in the Forest Conservation Technical Manual, to protect retained forests and trees during construction.
- (b) If a local agency or person using State funds makes application to conduct a regulated activity, the provisions of COMAR 08.19.04.01 D: G apply.

10-200 IMPLEMENTATION

10-201 Forest Stand Delineation

- (a) A forest stand delineation must be submitted at the initial stages of subdivision or project plan approval, before a grading permit application, or before a sediment control application is submitted for the tract being developed.

- (b) The delineation must be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- (c) The delineation must be used during the preliminary review process to determine the most suitable and practical areas for forest conservation and must contain the following components:
 - (1) A topographic map delineating intermittent and perennial streams, and steep slopes over 25 percent;
 - (2) A soils map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of 15 percent or more;
 - (3) Forest stand maps indicating species, location, and size of trees and showing dominant and co-dominant forest types;
 - (4) Location of 100-year floodplains;
 - (5) Information required by the Forest Conservation Technical Manual; and
 - (6) Other information the Planning and Zoning Commission determines is necessary to implement this Article.
- (d) If approved by the Planning and Zoning Commission, a simplified delineation may be submitted for an area:
 - (1) When no forest cover is disturbed during a construction activity; and
 - (2) Designated to be under a long term protective agreement.
- (e) The Planning and Zoning Commission may consider a simplified forest stand delineation complete if it includes:
 - (1) All requirements under Subsections (c)(1), (c)(2), (c)(2), and (c)(5) of Section 10-106 of this Article;
 - (2) A map showing existing forest cover as verified by field inspection; and
 - (3) Other information required by this Article.
- (f) An approved forest stand delineation may remain in effect for a period not longer than five (5) years.
- (g) Time for Submittal.
 - (1) Within thirty (30) calendar days after receipt of the forest stand delineation, the Planning and Zoning Commission must notify the applicant whether the forest stand delineation is complete and correct.
 - (2) If the Planning and Zoning Commission fails to notify the applicant within thirty (30) days, the delineation must be treated as complete and correct.
 - (3) The Planning and Zoning Commission may require further information or provide for an additional fifteen (15) calendar days under extenuating circumstances.

10-202 Forest Conservation Plan

(a) General Provisions:

- (1) In developing a forest conservation plan, the applicant must give priority to techniques for retaining existing forest on the site.
- (2) If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant must demonstrate to the satisfaction of the Planning and Zoning Commission:
 - A. How techniques for forest retention have been exhausted;
 - B. Why the priority forests and priority areas specified in Natural Resources Article, Sec. 5-1607(c), Annotated Code of Maryland, cannot be left in an undisturbed condition;
 - C. If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article Section 5-1607(a), Annotated Code of Maryland; and
 - D. Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article Section 5-1607, Annotated Code of Maryland.
- (3) The applicant must demonstrate to the satisfaction of the Planning and Zoning Commission that the requirements of afforestation or reforestation onsite or offsite cannot be reasonably accomplished if the applicant proposes to make a payment into the Town forest conservation fund instead of afforestation or reforestation. (See Section 10-111 of this Article.)
 - A. Nontidal Wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Natural Resources Article, Sec. 8-1201: 1211, Annotated Code of Maryland, and COMAR 08.05.04 is subject to both the nontidal wetlands regulatory requirements and the requirements of this law, subject to the following:
 - i. Any area of forest in the net tract area, including forest in nontidal wetlands that is retained, must be counted towards forest conservation requirements under this Article.
 - ii. For the purpose of calculating reforestation mitigation under this Article, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under COMAR 08.05.04 must be shown on the forest conservation plan and subtracted on an acre for acre basis from the total amount of forest to be cut or cleared as part of a regulated activity.
 - iii. Nontidal wetlands must be considered to be priority areas for retention and replacement.

- iv. Forested wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the forested wetlands and to avoid delay in the approval process.

(b) Preliminary Forest Conservation Plan

- (1) A preliminary forest conservation plan must be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- (2) A preliminary forest conservation plan must:
 - A. Be submitted with the preliminary plan of subdivision or proposed project plan;
 - B. Include the approved forest stand delineation for the site;
 - C. Include a table that lists the proposed values of the following, in square feet:
 - i. New tract area,
 - ii. Area of forest conservation required, and
 - iii. Area of forest conservation that the applicant proposes to provide, including both onsite and offsite areas;
 - D. Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
 - E. Include an explanation of how the provisions of Section 10-107 of this Article have been met;
 - F. In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
 - G. Include a proposed construction timetable showing the sequence of forest conservation procedures;
 - H. Show the proposed limits of disturbance;
 - I. Show proposed stockpile areas;
 - J. Incorporate a proposed 2-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;
 - K. Information required in the Forest Conservation Technical Manual; and
 - L. Other information the Planning and Zoning Commission determines is necessary to implement this Article.
- (3) The review of the preliminary forest conservation plan is to be concurrent with the review of the preliminary site plan.

(4) During the different stages of the review process, the preliminary forest conservation plan may be modified provided the Town Planning and Zoning Commission approve said changes.

(c) Final Forest Conservation Plan

(1) A final forest conservation plan must be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.

(2) A final forest conservation plan must:

A. Be submitted with the following:

- i. A final subdivision plan,
- ii. A final project plan,
- iii. An application for a grading permit, or
- iv. An application for a sediment control permit;

B. Show proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;

- C. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
- D. Incorporate a binding 2-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including;
 - i. Watering, and
 - ii. A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual;
- E. Incorporate a long-term binding protective agreement as specified in COMAR 08.19.05.02 that:
 - i. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention, and
 - ii. Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;
- F. Include the substantive elements required under Subsections (b)(2)-(b)(5), (b)(7)-(b)(9), and (b)(11) of Section 10-108 of this Article, as finalized elements of the forest conservation plan; and
- G. Other information the Planning and Zoning Commission determines is necessary to implement this Article.

(3) Time for submittal:

- A. Within forty-five (45) calendar days after receipt of the final forest conservation plan, the Planning and Zoning Commission must notify the applicant whether the forest conservation plan is complete and approved.
- B. If the Planning and Zoning Commission fails to notify the applicant within forty-five (45) calendar days, the plan must be treated as complete and approved.
- C. The Planning and Zoning Commission may require further information or extend the deadline for an additional fifteen (15) calendar days under extenuating circumstances.
- D. At the request of the applicant, the Planning and Zoning Commission may extend the deadline under extenuating circumstances.

(4) The Planning and Zoning Commission's review of a final forest conservation plan is to be concurrent with the review of the final subdivision or project

plan, grading permit application, or sediment control application associated with the project.

- (5) The Planning and zoning Commission may revoke an approved forest conservation plan if it finds that:
 - A. A provision of the plan has been violated;
 - B. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
 - C. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.
- (6) The Planning and Zoning Commission may issue a stop work order against a person who violates a provision of this Article or a regulation, order, approved forest conservation plan, or maintenance agreement.
- (7) Before revoking approval of a forest conservation plan, the Planning and Zoning Commission must notify the violator in writing and provide an opportunity for a hearing.

10-203 Afforestation and Retention

(a) Afforestation Requirement.

A person making application after the effective date of this Article for subdivision or project plan approval, a grading permit, or a sediment control permit, for an area of land of 40,000 square feet or greater, must:

- (1) Conduct afforestation on the lot or parcel such that the following minimum threshold percentages are met:

<u>Zoning District</u>	<u>Threshold</u>
RC	50%
R-LD	20%
All other	15%

- (2) Comply with the following when cutting into forest cover that is currently below the afforestation percentages specified in Subsection 10-108(a)(1) of this Article:

- A. The required afforestation level must be determined by the amount of forest existing before cutting or clearing begins; and
- B. Forest cut or cleared below the required afforestation level must be reforested or afforested at a 2 to 1 ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

(b) Retention.

The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and must be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning and Zoning Commission that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

- (1) Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain, intermittent and perennial streams and their buffers, steep slopes, nontidal wetlands, and critical habitats;
- (2) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;
- (3) Trees, shrubs or plants determined to be rare, threatened, or endangered under:
 - A. The Federal Endangered Species Act of 1973 in 16 U.S.C. Sec. 1531: 1544 and in 50 CFR Part 17,
 - B. The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, Sec. 10-2A-01: 10-2A-09, Annotated Code of Maryland, and
 - C. COMAR 08.03.08;
- (4) Trees that:
 - A. Are part of a historic site;
 - B. Are associated with a historic structure, or
 - C. Have been designated by the State or the Town as a national, State, or Town champion tree; and
- (5) Any tree having a diameter measured at 4.5 feet above the ground of:
 - A. Thirty (30) inches or more; or
 - B. Seventy-five (75%) percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Maryland Department of Natural Resources.

10-204 Reforestation

- (a) There is a forest conservation threshold established for all land uses as provided in paragraph B below. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/4 acre planted for each acre removed above the threshold to a ratio of 2 acres planted for each acre removed below the threshold.
- (b) After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or project plan, grading and sediment control activities, and implementation of the forest conservation plan, the forest conservation plan must provide for reforestation, or payment into the forest conservation fund, according to the formula set forth in this Section and consistent with Subsection 10-107(a) of this Article, and the following forest conservation thresholds for the applicable land use category:

<u>Zoning District</u>	<u>Threshold</u>
RC	50%

R-LD	20%
All others	15%

(c) Calculations.

- (1) For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed must be reforested at a ratio of 1/4 acre planted for each acre removed.
- (2) Each acre of forest retained on the net tract area above the applicable forest conservation threshold must be credited against the total number of acres required to be reforested under paragraph (1) of this Subsection. The calculation of the credit must be according to the criteria provided in the Forest Conservation Technical Manual.
- (3) For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed must be reforested at a ratio of 2 acres planted for each acre removed below the threshold and at a ratio of 1/4 acre planted for each acre removed above the threshold.

10-205 Priorities and Time Requirements for Afforestation and Reforestation

- (a) After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Planning and Zoning Commission, is as follows:
 - (1) Selective clearing and supplemental planting on site;
 - (2) Onsite afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than 1.5 inches diameter measured at 4.5 feet above the ground;
 - (3) Onsite afforestation or reforestation, using whip and seedling stock;
 - (4) Landscaping of areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and covering 2,500 square feet or more of area;
 - (5) Offsite afforestation or reforestation, using transplanted or nursery stock that is greater than 1.5 inches diameter measured at 4.5 feet above the ground;
 - (6) Offsite afforestation or reforestation, using whip and seedling stock;
 - (7) Natural regeneration on site; and
 - (8) Natural regeneration offsite.
- (b) A sequence other than the one described in Subsection 10-110(a) of this Article may be used for a specific project, if necessary, to achieve the objectives of the Town Master Plan or Town land use policies, or to take advantage of opportunities to consolidate forest conservation efforts.

- (c) The following are considered a priority for afforestation and reforestation to:
- (1) Establish or enhance forest buffers adjacent to intermittent and perennial streams to widths of at least 50 feet;
 - (2) Establish or enhance nonforested areas on 100-year floodplains, when appropriate;
 - (3) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;
 - (4) Establish or enhance forest buffers adjacent to critical habitats where appropriate;
 - (5) Establish plantings to stabilize slopes of 25 percent or greater and slopes of 15 percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;
 - (6) Establish buffers adjacent to areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way;
 - (7) Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and
 - (8) Use native plant materials for afforestation or reforestation, when appropriate.
- (d) The person conducting the required afforestation or reforestation efforts under this Article must accomplish it within 1 year to two growing seasons, whichever is a greater time period, following development project completion.

10-206 Fees of Afforestation and Reforestation

- (a) Fees-In-Lieu of Afforestation and Reforestation:
- (1) A Town of Chesapeake Beach Forest Conservation Fund is established to receive Fees-in-lieu funds and fines.
 - (2) If a person subject to this ordinance demonstrates in writing to the satisfaction of the Town that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money, at a rate of ten cents (10¢) per square foot of the area of required planting, into the Town Forest Conservation Fund.
 - (3) Money contributed in-lieu-of afforestation or reforestation under this article shall be paid prior to receiving a Zoning Permit.
 - (4) The Town shall accomplish the reforestation or afforestation for which the money is deposited.
 - (5) Money deposited in the Town Forest Conservation Fund:
 - A. May be spent on the costs directly related to reforestation and afforestation, including site identification, acquisition, and preparation;

- B. May be spent for any other activity permitted for the use of such funds by the State; and
- C. May not revert to the general fund.

10-207 Recommended Tree Species

- (a) Tree species used for afforestation or reforestation must be native to Calvert County.
- (b) The determination that a tree species meets the above native requirement for afforestation or reforestation is the responsibility of the preparer of the final forest conservation plan as qualified under Subsection 10-107(c)(1) of this Article.

10-208 Financial Security for Afforestation and Reforestation

- (a) A person required to conduct afforestation or reforestation under this article must furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Town. The surety shall:
 - (1) Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved forest conservation plan;
 - (2) Be in an amount equal to the estimated cost, as determined by the Town, of afforestation and reforestation; and
 - (3) Be in a form and of a content approved by the Town.
- (b) After one growing season, the person required to file a bond under Subsection 10-113(a) of this Article may request reduction of the amount of the bond or other financial security by submitting a written request to the Planning and Zoning Commission with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.
- (c) The Planning and Zoning Commission shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - (1) The number of acres,
 - (2) The proposed method of afforestation or reforestation,
 - (3) The cost of planting materials or replacement materials,
 - (4) The cost of maintenance of the afforestation or reforestation project, and
 - (5) Other relevant factors.
- (d) If, after two growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Forest Conservation Technical Manual, the amount of the cash bond, letter of credit, surety bond, or other security must be returned or released.

10-209 Standards for Protecting Trees from Construction Activities

- (a) The standards for the protection of trees from construction activity are provided in the Forest Conservation Technical Manual.
- (b) Before cutting, clearing, grading, or construction begins on a site for which a forest conservation plan is required by the Article, the applicant must demonstrate to the Planning and Zoning Commission that protective devices have been established.

10-210 Variances

- (a) Written Request:

A person may request from the Town of Chesapeake Beach Board of Zoning Appeals a variance from this Article, or any regulation adopted under it, if the person demonstrates that enforcement would result in practical difficulty or unnecessary hardship to the person. Practical difficulty means that the strict application of this Article would prevent the applicant from using the lot for a permitted purpose or would render conformity with the requirements in this Article unnecessarily burdensome. A variance request will be processed and acted upon by the Board of Appeals in accordance with Section 8-206 of this Ordinance.

- (b) Application Requirements.

An applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the practical difficulty;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

- (c) Notice to Maryland Department of Natural Resources; Right to Initiate or Intervene in Proceedings.

- (1) Notice of a pending variance request must be given to the Maryland Department of Natural Resources within 15 days of receipt of a request for a variance.
- (2) The Maryland Department of Natural Resources may initiate or intervene in an administrative, judicial or other original proceeding or appeal in the State concerning an approval of a variance.

10-211 Penalties

- (a) Noncompliance Fees.

- (1) A person found to be in noncompliance with the Article, regulations adopted under this Article, the forest conservation plan, or the associated 2-year

maintenance agreement may be assessed by the Planning and Zoning Commission the penalty of 30 cents per square foot of the area found to be in noncompliance with required forest conservation.

- (2) Money collected under Subsection 10-116(a)(1) of this Article must be deposited in the Chesapeake Beach Forest Conservation Fund as referenced in Section 10-111 of this Article.

(b) Violation.

- (1) In addition to the provisions under Subsection 10-116(a) of this Article, a person who violates a provision of the Article or a regulation or order adopted or issued under this Article is liable for a penalty not to exceed \$1,000, which may be recovered in a civil action brought by the Town.

- (2) Each day a violation continues is a separate violation.

- (c) The Town may seek an injunction requiring the person to cease violation of this Article and take corrective action to restore or reforest an area.

10-212 Annual Report

On or before July 1 of each year, the Town will submit to the Senate Economic and Environmental Affairs Committee and the House Environmental Matters Committee a report on:

- (a) The number, location, and type of projects subject to the provisions of this Article;
- (b) The amount and location of acres cleared, conserved, and planted in connection with a development project;
- (c) The amount of reforestation and afforestation fees and noncompliance penalties collected and expended; and
- (d) The costs of implementing the Forest Conservation Program.

10-213 Biennial Review by the State

Every two (2) years from the date of the adoption of the Ordinance which incorporates this Article into the Town Zoning laws, the State of Maryland, Department of Natural Resources will conduct its review of the Town's Forest Conservation Program as is mandated by State law.

10-214 Amendments

The Article may be amended as required. All amendments to this Article are subject to the approval of the Maryland Department of Natural Resources.

10-300 DEFINITIONS

10-301 Forest and Tree Conservation Definitions

In this Article, the following terms have the meanings indicated:

Afforestation:	The establishment of a forest on an area from which forest cover has been absent for a long period of time; planting of open areas which are not presently in forest cover; or establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.
Applicant:	A person who is applying for subdivision or project plan approval or a grading or sediment control permit, or who has received approval of a forest stand delineation or a forest conservation plan.
Approved Forest Management Plan:	A document approved by the Maryland Department of Natural Resources forester assigned to the County in which the property is located; and which operates as a protective agreement for forest conservation as described in the Natural Resources Article, Sec. 5-1607(e)-(f), Annotated Code of Maryland.
Board of Zoning Appeals:	The Board of Zoning Appeals for the Town of Chesapeake Beach.
Caliper:	The diameter measured at 2 inches above the root collar.
Champion Tree:	The largest tree of its species within the United States, the State, County, or Municipality;
COMAR:	Code of Maryland Regulations.
Commercial Uses:	Uses permitted in the Commercial Zone under the Chesapeake Beach Zoning Article.
Critical Habitat Area:	A critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall be likely to contribute to the long-term survival of the species; be likely to be occupied by the species for the foreseeable future; and constitute habitat of the species which is considered critical under Natural Resources Article, Sec. 4-2A-04 and 10-2A-06, Annotated Code of Maryland.
Critical Habitat for Endangered Species:	A habitat occupied by an endangered species as determined or listed under Natural Resources Article, Sec. 4-2A-04 and 10-2A-04, Annotated Code of Maryland.

Declaration of Intent:	A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property that: (1) Is for certain activities exempted under this Article or Natural Resources Article, Sec. 5-103 and 5-1601: 5-1612, Annotated Code of Maryland, (2) Does not circumvent the requirements of this Article or Natural Resources Article, Sec. 5-103 and 5-1601: 5-1612, Annotated Code of Maryland, and (3) Does not conflict with the purposes of any other declaration of intent; and is the document required under COMAR 08.19.01.05 or this Article.
Development Project:	The grading or construction activities occurring on a specific tract that is 40,000 square feet or greater. "Development project" includes redevelopment.
Development Project Completion:	For the purposes of afforestation, reforestation, or payment into a fund: (1) the release of the development bond, if required; (2) acceptance of the project's streets, utilities, and public services by the Planning and Zoning Commission; or (3) designation by the Planning and Zoning Commission that a development project has been completed, or that a particular stage of a staged development project, including a planned unit development, has been completed.
Forest:	A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. "Forest" includes areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and areas that have been cut but not cleared. "Forest" does not include orchards.
Forest Conservancy District Board:	The forestry board created for each State forestry conservancy district under Natural Resources Article, Sec. 5-601: 5-610, Annotated Code of Maryland.
Forest Conservation:	The retention of existing forest or the creation of new forest at the levels set by this Article.
Forest Conservation and Management Agreement:	An agreement as stated in the Tax-Property Article, Sec. 8-211, Annotated Code of Maryland.
Forest Conservation Plan:	A plan approved pursuant to this Article or the Natural Resources Article, Sec. 5-1606 and 5-1607, Annotated Code of Maryland.
Forest Conservation Technical Manual:	The Forest Conservation Manual, prepared for the Maryland Department of Natural Resources, dated December 31, 1991, and as may be amended.
Forest Cover:	The area of a site meeting the definition of forest.
Forest Management Plan:	A plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.

Forest Stand	
Delineation:	The methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Forest Conservation Technical Manual.
Growing Season:	The period of consecutive frost-free days as stated in the current soil survey covering the Town published by the National Cooperative Soil Survey Program, 16 U.S.C. Sec. 590 (a)-(f).
Intermittent Stream:	A stream in which surface water is absent during a part of the year, as shown on the most recent 7.5-minute topographic quadrangle including the Town and published by the United States Geological Survey, and as confirmed by field verification.
Landscaping Plan:	A plan drawn to scale, showing dimensions and details for reforesting an area at least 35 feet wide and covering 2,500 square feet or greater in size; using native or indigenous plants when appropriate; and which is made part of an approved forest conservation plan.
Lot:	For purposes of this Article, a unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel, and which will not be the subject of further subdivision, as defined by Natural Resources Article Sec. 5-1601, Annotated Code of Maryland and this Article without an approved forest stand delineation and forest conservation plan.
Maintenance	
Agreement:	The short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article, Sec. 5-1605, Annotated Code of Maryland and this Article.
Natural Regeneration:	The natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.
Net Tract Area:	<p>(a) Except in agriculture and resource areas the total area of a site, including both forested and nonforested areas, to the nearest 1/10 acre, reduced by the area found to be within the boundaries of the 100-year floodplain; and</p> <p>(b) In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area found to be within the boundaries of the 100-year floodplain.</p>
Nontidal Wetlands:	An area that is: (1) Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation; and (2) Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency. "Nontidal wetlands" does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.
Offsite:	Outside of the limits of the area encompassed by the tract.

Onsite:	Within the limits of the area encompassed by the tract, including an area classified as a 100-year floodplain.
100-year Flood:	A flood which has a 1 percent chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.
100-year Floodplain:	An area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100-year flood.
Perennial Stream:	A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geological Survey, as confirmed by field verification.
Person:	The Federal government, the State, a county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.
Project Plan:	A construction, grading, or sediment control activity on an area of 40,000 square feet or greater.
Public Utility:	Any transmission line or electric generating station; or water, sewer, electric, gas, telephone, and television cable service line.
Reforestation (or Reforested):	The creation of a biological community dominated by trees and other woody plants containing at least 100 live trees per acre with at least 50 percent of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground, within 7 years; or the establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual. "Reforestation" or "reforested" includes landscaping of areas under an approved landscaping plan establishing a forest at least 35 feet wide and covering 2500 square feet or more of area.
Regulated Activity:	Any of the following activities, when that activity occurs on a unit of land which is 40,000 square feet or greater: <ul style="list-style-type: none"> (a) Subdivision; (b) Grading; (c) An activity that requires a sediment control permit; or (d) Project plan of a local agency.
Retention:	The deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the Forest Conservation Technical Manual.
Sediment Control Permit:	The authorization of an activity regulated under a sediment control plan as provided in the Environment Article, Title 4, Annotated Code of Maryland.

Seedlings:	An unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch measured at 2 inches above the root collar.
Selective Clearing:	The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.
Stream Buffer:	All lands lying within 50 feet, measured from the top of each normal bank of a perennial or intermittent stream.
Subdivision Plan:	An application for approval of a plat of subdivision prepared and submitted for approval by the Planning and Zoning Commission pursuant to the Land Subdivision Regulations of the Town of Chesapeake Beach.
Tract:	Property, lot, parcel or other unit of land subject to an application for a grading or sediment control permit, subdivision approval, project plan approval, or areas subject to this subtitle.
Tree:	A large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least 20 feet at maturity.
Variance:	Relief from this Article, pursuant to Section 10-115 of this Article. It does not mean a zoning variance.
Watershed:	All land lying within an area described as a sub-basin in water quality regulations adopted by the Maryland Department of the Environment under COMAR 26.08.02.08.
Whip:	An unbranched woody plant greater than 24 inches in height and having a diameter of less than 1 inch measured at 2 inches above the root collar.

Appendix A

The following fees shall be applicable to the procedures set forth below, to be collected from the applicant at the time the applicant files the Application for such procedure. All fees shall be payable to “Town of Chesapeake Beach” and shall be added to the general fund.

Site Plan Review (Category 1 and 2 are defined by Section 6-102 of the Zoning Ordinance).

Category 1

Base Application Fee of \$250.00 plus:

- \$1,200.00 for new building gross floor area under 2,300 sf.
- \$2,400.00 for new building gross floor area 2,300 sf to 10,000 sf.
- \$4,800.00 for new building gross floor area 10,000 sf to 20,000 sf.
- \$7,200.00 for new building gross floor area over 20,000 sf.
- \$2,400.00 for residential site plans with 10 or fewer units.
- \$4,800.00 for residential site plans with more than 10 units.

Category 2

Base Application Fee of \$360.00.

Critical Area Site Plan

Same as above except the base application fee shall be \$600.00 for Category 1 Site Plans and \$480.00 for Category 2 Site Plans.

Application for Extension of Approved Site Plan

- Extension of Approved Category 1 Site Plan - \$450.00
- Extension of Approved Category 2 Site Plan – \$100.00

Revision to Approved Site Plan

- Revision to Approved Site Plan (major revisions requiring Planning Commission review): Fee same as noted above for site plan review.
- Revision to Approved Site Plan (minor administrative revisions): Category 1: \$600.00; Category 2: \$125.00.

Residential Planned Community District Development Plan Review

- Application and Review Fee of \$2,400.00*

* Upon approval of the Development Plan, all appropriate subdivision and/or site plan fees shall be paid by developer to proceed with review and approval process, however the base application fee shall be waived.

Board of Appeals

Interpretation Appeals \$1,000.00 (Revised 4/5/06)

Variances

- \$480.00 for commercial, institutional, multi-family, or senior houses cases.
- \$500.00 for single-family residential cases. (Revised 4/5/06)

Special Exceptions

- Commercial, Institutional, Multi-Family, Senior Houses - \$600.00
- Residential - \$500.00 (Revised 4/5/06)

Miscellaneous Application and Review Fees

Annexation (review by Zoning Authorities and Town Council) \$1,200.00

Zoning Map Amendment \$1,200.00

Traffic Impact Study Review \$1,200.00*

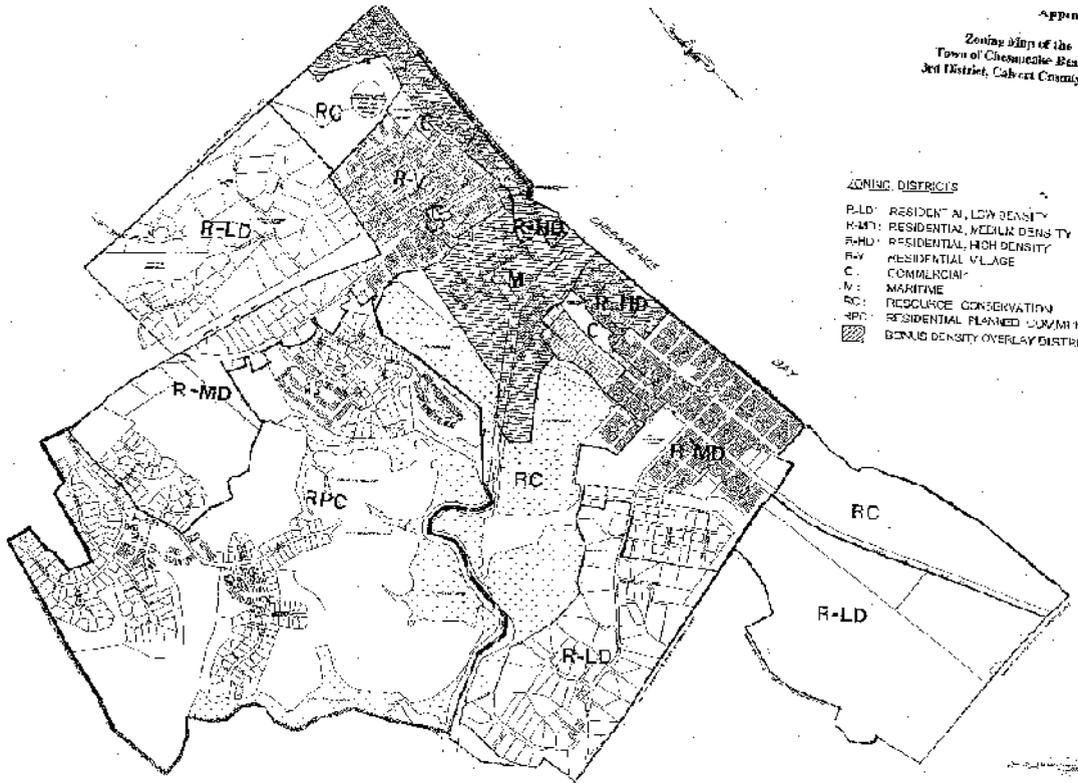
Property Line Adjustment \$ 120.00 for each request

Zoning Permit \$ 75.00

*A Traffic Impact Study, when required by Town or State Highway Administration, must be reviewed by the Planning Commission upon payment of the review fee.

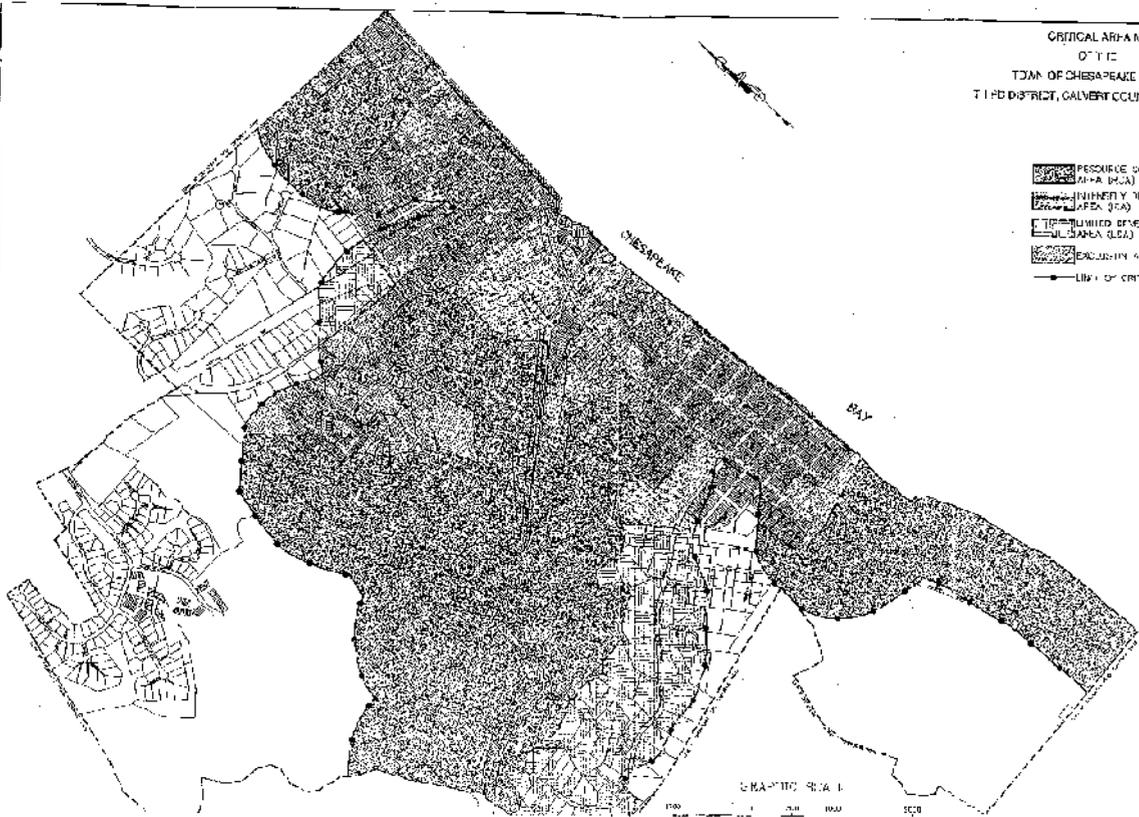
Appendix B Zoning Map

Appendix B
Zoning Map of the
Town of Chesapeake Beach
3rd District, Calvert County, MD



CRITICAL AREA MAP
OF THE
TOWN OF CHESAPEAKE BEACH
TIDAL DISTRICT, CALVERT COUNTY MARYLAND

-  PRESERVE CONSERVATION AREA (PCA)
-  HISTORIC DEVELOPMENT AREA (HDA)
-  UNDEVELOPED OPEN SPACE (UOS)
-  EXCLUSIVE ZONE
-  BOUNDARY OF CRITICAL AREA



GRAPHIC SCALE

0 100 200 300

Appendix C

Outline of Critical Area Fines

<i>Offense</i>	<i>Mistake/Unintentional</i>	<i>Intentional/Willful</i>
Illegal development in the Buffer	\$600	\$3,000
Illegal removal of vegetation/trees in Buffer	\$1,000	\$5,000*
Illegal grading of slopes in Buffer	\$1,000	\$5,000*
Violation of Development Standards in BEA	\$200	\$1,000
Illegal Cutting/Clearing of Trees in LDA	\$600	\$3,000
Illegal grading of slopes over 15% in LDA	\$600	\$3,000
Illegal Cutting/Clearing of Trees in RCA	\$1,000	\$5,000
Illegal grading of slopes over 15% in RCA	\$1,000	\$5,000
Violations after refusal to permit or stop work/	\$10,000 (intent not an issue) Cease and desist order	

* Rebuttable Presumption of Intent if over 100 sq. ft.

** Rebuttable Presumption of Intent if over 200 sq. ft.