



SOMERSET COUNTY
DEPARTMENT OF TECHNICAL AND COMMUNITY SERVICES

Gary R. Pusey, Director
Kristen M. Tremblay, Assistant Director

AGENDA
SOMERSET COUNTY
PLANNING & ZONING COMMISSION WORK SESSION
JANUARY 3, 2019 at 6:00 P.M.
SOMERSET COUNTY COMMISSIONERS MEETING ROOM
11916 SOMERSET AVENUE, ROOM 111
PRINCESS ANNE, MD 21853

.....

A. MINUTES – December 13, 2018

B. OLD BUSINESS

- (1) DISCUSSION – COMPREHENSIVE ZONING ORDINANCE AMENDMENT.
Materials are attached for the Planning Commission's consideration and discussion.

C. OTHER BUSINESS

D. ADJOURN

SOMERSET COUNTY
PLANNING AND ZONING COMMISSION
MINUTES
December 13, 2018

The meeting of the Somerset County Planning and Zoning Commission was held in the meeting room of the Somerset County Commissioners, Room 111, in the Somerset County Office Complex at 11916 Somerset Ave., Princess Anne, MD. The Somerset County Planning Commission members present included Jeremy Mason, Glenn Ains, Matt Webster, Janet McIntyre, and Steve Raab. Also present were staff members of the Department of Technical and Community Services, Gary Pusey, Director; Kristen Tremblay, Assistant Director; and Kymberly Kudla, Planner.

The meeting opened at 7:00 p.m.

Mr. Raab motioned to accept the minutes from the October 4, 2018 meeting. Upon a second by Mr. Mason, the motion passed unanimously. Minutes from the November 1, 2018 meeting were presented to the Planning Commission; however no vote could be taken as there was no quorum at that meeting.

Mr. Pusey introduced the new Planning Commission member, Mr. Matt Webster.

Election of Officers

Mr. Ains asked if anyone had any nominations and/or interest in the position of Chairman/Vice Chairman.

The Planning Commission (PC) members nominated Mr. Ains for the Chairman and Ms. Garton for the Vice Chairman.

Ms. McIntyre motioned to elect Mr. Ains as Chairman and Ms. Garton as Vice Chairman. Upon a second by Mr. Mason, the motion passed unanimously.

2019 Planning Commission Meeting Schedule

The PC members had no comments in regards to the 2019 schedule.

Mr. Ains brought up the suggestion of changing the start time from 7:00 p.m. to 6:00 p.m.

Ms. McIntyre motioned to change the PC meeting start time from 7:00 p.m. to 6:00 p.m. Upon a second by Mr. Mason, the motion passed unanimously.

Ms. McIntyre asked that the time change be acknowledged on the county's website.

Discussion – Comprehensive Zoning Ordinance Amendment

Ms. Tremblay started with a review of the comparison chart included in the meeting packet showing the differences between current zoning versus proposed zoning changes.

Discussion ensued on farm breweries in the MRC as first brought up during the November meeting. The PC agreed to leave them out of the MRC.

Ms. Tremblay explained the concept of community solar and the option to treat them as ‘medium scale’ or ‘utility scale.’ Community solar projects are those that generate no more than two (2) Megawatts (MW) and typically cover up to twelve (12) acres.

Discussion ensued on community solar in regards to the size, site plan review, and landscape buffer.

The PC members decided upon medium scale standards with ties to utility scale decommissioning.

Ms. Tremblay agreed to look into separation setbacks.

Discussion moved to the items listed in the checklist included in the meeting packet. The following focal points were addressed:

- Electric vehicle charging stations: Ms. Tremblay discussed what districts they would either be permitted or by special exception. PC members appeared to be in agreement with the suggestions presented.
- Portable storage containers/roll-off trash containers exemption for agricultural operations: Ms. Tremblay explained the changes made from the suggestions presented during the November meeting. PC members were in agreement with the proposed changes.
- Landscaping for multifamily buildings: Short discussion ensued but with the absence of Ms. Garton the PC members decided for further discussion at next meeting.
- Special exceptions (SE): Discussion ensued on special exceptions for nonconforming uses to run with the land instead of with the landowner: PC in agreement with proposed changes.
- Incorporation of green building and infrastructure design guidance for planned unit developments (PUDs): PC members were agreement with the proposed change.
- Accessory uses regulations & temporary uses regulations: PC in agreement with proposed changes to this section.
- Retail stores as an accessory use in the AR and C-2 zoning districts (of goods customarily associated with the principal use, such as an outlet store, seafood market, or in the Airport Zone, goods related to aviation. *Please note that this is distinct from ‘Retail Stores’ as a principal use): PC in agreement with proposed changes with the addition of SE in the MRC.

- Properties ‘partially’ within the Overlay Commercial (O-C) Zoning District: PC in agreement that the O-C Overlay will apply to properties that are both entirely or partially within the overlay.
- Administrative variances: PC in agreement with proposed changes.
- Auto-repair of more than one (1) on a lot: Short discussion on auto repair on a residential lot. PC in agreement with proposed changes.
- Airport Overlay Zoning District: PC in agreement with proposed changes.
- Minimum requirements for single family dwellings: Ms. Tremblay presented a chart of regulations Somerset County requires versus other Maryland counties. PC in agreement with removing the current requirements.
- Landscaping, screening, and lighting standards: Discussion ensued on fencing materials and the use of metal. PC agreed to more discussion on landscaping when absent PC members are present.

Ms. Tremblay suggested the public hearing be held at the February meeting and will bring proposed zoning map amendments to the Planning Commission’s January meeting.

Old Business

PC members motioned to adjourn at 8:55 p.m. followed by a motion to reopen the meeting as to discuss the Great Bay solar project.

Mr. Raab motioned to allow Great Bay project representatives to replace the dead landscape buffer plants with Green Giant Arborvitae. Upon a second by Mr. Mason, the motion passed unanimously.

With no further business to discuss, the meeting adjourned at 9:00 p.m.

Respectfully submitted,

Kymberly Kudla



SOMERSET COUNTY
DEPARTMENT OF TECHNICAL AND COMMUNITY SERVICES

Gary R. Pusey, Director
Kristen M. Tremblay, Assistant Director

MEMORANDUM

TO: Somerset County Planning Commission

FROM: Kristen M. Tremblay, Assistant Director

DATE: December 28, 2018

SUBJECT: FOURTH DRAFT – Comprehensive Zoning Ordinance Amendment

Attached is the fourth DRAFT of the comprehensive zoning ordinance amendment. The Planning Commission will find changes discussed at the November meeting, except draft language to incorporate ‘medium solar energy facilities’ (see below for more discussion).

As to the remaining discussion topics needing to be addressed before a public hearing should be held, the Planning Commission may wish to spend time on the following items at its January 3, 2019 meeting:

- DRAFT landscaping provisions (pages 8-13 through 8-17 – highlighted in yellow);
- DRAFT Zoning Map Amendments (will be provided at the meeting for discussion);
- Medium Solar Facilities (as a principal use, freestanding systems - under two (2) Megawatts (MW); See discussion below).

Discussion Topic:

1. Due to holiday time constraints, staff was unable to come up with a concrete solution to the Planning Commission’s concerns about ‘daisy-chaining’ medium solar projects (those under two (2) Megawatts (MW) in size and as a principal use). We have had several discussions on the matter, and found that there are several variables that require input from the Planning Commission before proceeding with draft language. The following may assist in its discussion:
 - a. As freestanding medium solar projects can possibly cover up to 12 acres of land (under current technology – 2 MW or less), the Planning Commission will need to discuss its thoughts on having multiple small projects in the same vicinity. It is possible to create separation distance requirements but this could conceivably spread smaller projects over a larger area of land.
 - b. Under the proposed ordinance, medium solar projects require a special exception (through the Board of Zoning Appeals (BZA) with conditions). It should be noted

that special exceptions can be more difficult for the BZA to deny if they meet the criteria of the zoning ordinance. Projects over two (2) MW would be treated like a rezoning, and would give the County more discretion and flexibility in approvals or denials.

2. The Planning Commission also expressed some interest in knowing more about the Maryland Community Solar Program. The State is now providing incentives for solar projects under two (2) MW which essentially acts like a food co-op. The Planning Commission may want to have a brief discussion on this State program at its January 3, 2019 meeting. More information can be found at the following links:

<https://www.psc.state.md.us/electricity/community-solar-pilot-program/>

<https://energy.maryland.gov/residential/Pages/Community-Solar.aspx>

<https://www.delmarva.com/MyAccount/MyService/Pages/MD/CommunitySolar.aspx>

RECOMMENDATION: It is recommended that the Planning Commission conduct its review of the fourth DRAFT Comprehensive Zoning Ordinance Amendment and discuss landscaping, zoning map amendments, and medium scale solar.

Attachments:

1. December 27, 2018 DRAFT 2018 Somerset County Zoning Ordinance Amendment

DRAFT: (ALL CHANGES SHOWN)

Draft Date: December 27, 2018

Please note that this is the fourth DRAFT of a comprehensive zoning ordinance amendment and will require more work. Two (2) public hearings (one with the Planning Commission and another with the County Commissioners) would need to be held before adoption of the language in any form. This draft is offered for discussion and is subject to change pending items the Planning Commission would like to address.

***All changes from the currently adopted version have been tracked. Additional notations are added to assist the reader and are found in red.**

- Items highlighted in GRAY generally cover housekeeping items such as grammar, numbers, and other changes that help the zoning ordinance become more user-friendly (larger sections of stricken items have not been highlighted for ease of reading). The Planning Commission is encouraged to spend more time on the items highlighted in YELLOW. These items generally cover more significant changes that might need additional discussion, are new, or have been covered in recent months by the Planning Commission (e.g. Accessory Dwelling Units, Farm Breweries, etc.). Items in blue demonstrate changes in specific ordinance sections that the Planning Commission has worked on, but not seen previously. Section references are shown in teal (this helps staff to make sure these items are appropriately adjusted if the Planning Commission makes significant changes that affect section numbers).

Please note that minor housekeeping changes from the November 30, 2018 draft are again shown highlighted in gray. Items the Planning Commission discussed that were shown highlighted in yellow have been changed to gray. New changes to significant items are shown in blue.

SOMERSET COUNTY ZONING ORDINANCE

Somerset County, Maryland

Recommended by the Somerset County Planning
and Zoning Commission on ~~August 3, 2000~~ X, X, X

Adopted by the Somerset County Board of
County Commissioners on ~~December 19, 2000~~ X, X, X

The Effective date of this Ordinance ~~#741~~ X shall be
~~February 5, 2001~~ X, X, X

Amendments to the Zoning Ordinance
Ordinance #768 effective December 3, 2001
Ordinance #781 effective February 26, 2002
Ordinance #905 effective November 1, 2005
Ordinance #906 effective January 1, 2005
Ordinance #920 effective July 1, 2006
Ordinance #972 effective June 13, 2008
Ordinance #979 effective August 1, 2008
Ordinance #981 effective August 21, 2008
Ordinance #984 effective October 1, 2008
Ordinance #985 effective October 1, 2008
Ordinance #1018 effective November 9, 2010
Ordinance #1034 effective March 16, 2010
Ordinance #1062 effective July 20, 2013
Ordinance #1071 effective February 1, 2014
Ordinance # 1080 effective July 29, 2014
Ordinance #1111 effective August 9, 2016

Community Planning and Zoning Consultant
Urban Research and Development Corporation
Bethlehem, Pennsylvania

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SECTION 1

ESTABLISHMENT OF DISTRICTS GENERAL PROVISIONS

(Sections 1.1 through 1.7 are NEW – Standard Language for Ordinances)

- 1.1 Title.** This Ordinance shall be known and may be cited as the ‘Somerset County Zoning Ordinance.’
- 1.2 Authority.** This Ordinance is enacted under the authority granted by the General Assembly of Maryland, as provided in the Land Use Article, Annotated Code of Maryland, as amended.
- 1.3 Purpose.** This Ordinance has been prepared in accordance with the Somerset County Comprehensive Plan and is designed to: secure the public safety, promote the health and general welfare of its citizens, provide adequate light and air, promote the conservation of natural resources, prevent environmental pollution, avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements. Regulations shall be made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout the county.
- 1.4 Applicability.**
- a. This Ordinance applies to all lands, buildings and properties lying within the unincorporated boundaries of Somerset County as the same shall be established from time to time.
 - b. This Ordinance does not apply to:
 1. Land, structures, and buildings owned by the County Commissioners of Somerset County or by any agency of the county, including the Somerset County Board of Education.
 2. Land, structures, and buildings leased to the County Commissioners of Somerset County or by any agency of the county, including the Somerset County Board of Education, for so long as the lease is in effect.
 3. Land, structures, and buildings under contract with the County Commissioners of Somerset County or by any agency of the county, including the Somerset County Board of Education, to provide a public service for so long as the contract is in effect.
- 1.5 Conformity with Ordinance Provisions.** The regulations set by this Ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except and particularly as hereinafter provided:
- a. No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, demolished, moved or structurally altered externally, unless in conformity with 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, or 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 Section.

- c. 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.
- d. 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.

1.6 Interpretation of Provisions.

- a. In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements and are not intended to prohibit the use or application of higher standards by persons utilizing, building upon or developing lands within jurisdiction of this Ordinance.
- b. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted laws, rules, regulations, ordinances, deed restrictions or covenants, the more restrictive or that imposing the higher standards shall govern.
- c. Enforcement under this Ordinance shall, however, be limited to enforcement of the terms of this Ordinance, as well as regulations, requirements and restrictions adopted or imposed pursuant hereto.

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

1.8 Zoning Maps.

- a. All areas of Somerset County that are not within the borders of incorporated towns or cities are hereby divided into zoning districts, as shown on the official Zoning Maps. Such Somerset County's Zoning Maps, together with all explanatory matter thereon, are hereby adopted by reference and declared to be a part of this Ordinance.
- b. The "Official Zoning Maps" shall consist of a set of paper or reproducible maps entitled "Official Zoning Maps of Somerset County, Maryland," and shall display the signature of County Clerk to attest that such the Maps were adopted by the Board of County Commissioners, and bearing the seal of the County, and the date of last amendment. Any amendment to the Zoning Maps shall be noted on the zoning map, with a reference to the date of amendment.
- c. No changes to the zoning district boundaries shall be made except in conformity with the procedures set forth in this Ordinance. However, base map information may be updated and corrected without a formal amendment to this Ordinance. The Official Zoning Maps shall be maintained in the offices of the Department of Technical and Community Services ("DTCS").

1.9 Replacement of Zoning Maps. In the event that the Official Zoning Maps become damaged, destroyed, lost or difficult to interpret because of the nature of the number of changes and additions, the County Commissioners may by resolution adopt new Official Zoning Maps which shall supersede the prior Official Zoning Maps.

- a. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps, but no such correction shall have the effect of amending the zoning boundaries. The Planning Commission shall certify as to the accuracy of the new Official Zoning prior to their adoption by the County Commissioners. The new Official Zoning Maps shall be identified and sealed as provided above.

1.10 Critical Area Maps. Official Critical Area District Maps, prepared as part of the Somerset County Critical Area Program, shall be maintained in force as Official Maps of the County. The Critical Area District Maps shall delineate the extent of the CA-1 Critical Area Overlay District (hereafter referred to as the "CA-1 District").

- a. The CA-1 District shall include all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. The Critical Area District Boundary shall, at a minimum, encompass the following:
 - (1) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
 - (2) Modification to the CA-1 District boundaries as approved by the County Commissioners and the Chesapeake Bay Critical Area Commission (as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland).
- b. Within the CA-1 District, all land shall be assigned one of the following land use management classifications based on the actual land use as of December 1985.
 - (1) Intensely Developed Area (IDA);
 - (2) Limited Development Area (LDA); or
 - (3) Resource Conservation Area (RCA).
- c. Land use management classifications shall be as mapped and designated in the County Critical Area Program, as amended. The land management classification for all lands in the Critical Area District shall appear on the Critical Area Overlay District Maps.

1.11 Changes to Critical Area Maps.

- a. The County Commissioners may from time to time elect to amend the CA-1 District to delete areas of the County from the District as provided for in the Somerset County Critical Area Ordinance. ~~when it can be demonstrated that the Critical Area, as mapped on the Official Critical Area District Maps, is incorrectly drawn or incorrectly classified. Evidence sufficient to warrant a determination of a mistakenly drawn Critical Area Boundary Line shall be based on and substantiated by either the Official State Wetland Maps, or by the amended Official State Wetland Maps adopted by the State of Maryland.~~
 1. ~~The amended Critical Area Boundary shall, at a minimum, encompass all areas as set forth in Section 1.3 above. Evidence of incorrectly classified parcels (such as change in RCA, LDA or IDA classifications) shall be based on existing land use as of December 1, 1985.~~

Section 1. Establishment of Districts

- ~~b. The County Commissioners may also elect to add areas to the Critical Area at any time. Additions or deletions of areas from the CA-1 District shall be processed as amendments to the Zoning Map.~~
- c. The County Commissioners may also approve applications for the Growth Allocation Floating District and thereby change the land management classification of properties within the CA-1 District. ~~Such Cehanges shall~~ must be done in accordance with ~~the Somerset County Critical Area Ordinance, Section 6.15 and the zoning map amendment provisions of this Ordinance. Revisions to the resource overlay maps, which involve technical changes, due to incorrect data will be made by the Department of Technical and Community Services. Data substantiating the change shall be forwarded to the Chesapeake Bay Critical Area Commission.~~

SECTION 2
INTERPRETATION OF DISTRICT BOUNDARIES

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

- a. Boundaries indicated as approximately following the center lines of roads, highways, or alleys shall be construed to follow ~~such~~ center lines;
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following ~~such~~ lot lines;
- c. Boundaries indicated as approximately following town or county limits shall be construed as following town or county lines;
- d. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- e. Boundaries indicated as following shore lines shall be construed to follow ~~such~~ shore lines, and in the event of change in the shore line, be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals or other bodies of water shall be construed to follow ~~such~~ center lines;
- f. Boundaries indicated as parallel to or extensions of features indicated in subsections ~~4(a)~~ through ~~5(e)~~ above shall be so construed. Distances not specifically indicated on the Official Zoning Maps shall be determined by the scale of the maps;
- g. Where a lot is divided by one ~~(1)~~ or more district boundary lines, each of said divisions of the lot shall be subject to the regulations of the district in which it is located;
- h. Where physical or cultural features existing on the ground area at variance with those shown on the Official Zoning Maps or in other circumstances not covered by subsections ~~4(a)~~ through ~~6(f)~~ above, the Board of Zoning Appeals shall interpret the district boundaries.

SECTION 3
APPLICATION OF DISTRICT REGULATIONS

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as hereinafter provided:

- 3.1. Conformance with ~~T~~this Ordinance. Hereafter, no new use shall be initiated, and no change or expansion in use shall occur, and no structure shall be constructed, reconstructed, placed, moved, or expanded unless ~~such~~ the activity conforms to all applicable regulations of this Ordinance, including but not limited to the regulations for the applicable zoning district.
- 3.2. Applicability. No structure shall hereafter be erected or altered:
 - a. to exceed the height;
 - b. to accommodate or house a greater number of persons or families;
 - c. to have narrower or smaller rear yards, front yards, side yards, open spaces or other dimensional requirement; than herein required; or in any other manner contrary to the provisions of this Ordinance.
- 3.3. No part of a yard, other open space, off-~~road~~ street parking or loading space required about or in connection with any use or lot for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-~~road~~ street parking or loading space similarly required for any other use or lot.
- 3.4. 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 effected date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 4
NONCONFORMITIES

4.1 Purposes. This Section-4 is intended to:

- a. Recognize that lots, structures and/or uses exist which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance, as amended;
- b. Encourage the incremental reduction over time in the number and intensity of nonconformities;
- c. Eliminate certain nonconformities that involve little investment in structures or that involve significant potential nuisances;
- d. Regulate the expansion of nonconformities to avoid increases in nonconformities;
- e. Not require changes in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance or amendment, and upon which actual building construction has been diligently carried on.
 - (1) “Actual construction” is defined as the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such the demolition or removal shall be deemed to be actual construction provided that work shall be diligently carried on until completion of the building involved.

4.2 Nonconforming Lots of Record; Critical Area District - Provided all other requirements of this Ordinance are met, a principal structure and its accessory structure(s) accommodating a use permitted in the respective district may be erected on a single lot of record if the lot was officially recorded prior to the effective date of the Ordinance or amendment that caused the nonconformity.

- a. This provision shall apply even though such the lot fails to meet the requirements for lot area, lot depth and/or lot width that are applicable in the district. Such lots are designated “nonconforming lots of record”.
- b. A nonconforming lot of record shall provide the yard dimensions specified in the applicable district regulations.
- c. Any variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.
- d. Nonconforming lots as a result of government action. If a lot is made nonconforming directly as a result of official government action (such as acquisition of additional road right-of-way), such the lot shall be considered conforming. However, any encroachments by new or expanded structures of required setbacks shall only occur through a variance approved by the Board of Zoning Appeals.

***The following subsection is proposed for removal as it is covered in the Somerset County Critical Area Ordinance.**

- ~~e. Lots of Record in the CA 1 Critical Area Overlay District — An individual lot or parcel of land located within the CA 1 District may be improved with a single family dwelling and related accessory uses in a Resource Conservation Area (RCA) and otherwise developed in accordance with Section 6.13 in a Limited Development Area (LDA) and an Intensely Developed Area (IDA) provided that they comply with the provisions of Section 6.13 and the Habitat Protection Area requirements of Section 9 of the County Critical Area Program, as amended and further provided that they comply with the following criteria:~~
- ~~(1) Any legally buildable single lot or parcel of record established prior to September 10, 1988 may be improved or developed with a single family detached dwelling.~~
 - ~~(2) A developer of any lot on which development activity has legally progressed to the point of pouring foundation footing or installation of structural members, prior to September 10, 1988 will be permitted to complete construction as per existing development approvals.~~
 - ~~(3) Development may take place on legally buildable lots of record that received final approval prior to 1 June 1984. Development after September 10, 1988 on land subdivided prior to 1 June 1984, shall comply with the use provisions of Section 6.13.~~
 - ~~(4) Development may take place on lots subdivided between June 1, 1984 and September 10, 1988 for which “interim findings” (Critical Area Law, Section 8-1813) have been made by the County Planning Commission, Board of Appeals, or County Commissioners.~~
 - ~~(5) Nothing in this section may be interpreted as altering any requirements for water dependent facilities as set forth in Section 6.13.f.1 herein and the Habitat Protection Area requirements of Section 9 of the County Critical Area Program.~~
 - ~~(6) To the extent practical, the Planning Commission may require lots not individually owned and recorded prior to September 10, 1988 to be consolidated or reconfigured in order to comply with the requirements of Section 6.13.~~
 - ~~(7) The Planning Commission shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on September 10, 1988, unless the use has been abandoned for more than one year or is otherwise restricted by this Ordinance. If any existing use does not conform with the provisions of this Ordinance, its intensification or expansion may be permitted only in accordance with Section 10.3.~~
 - ~~(8) Merger of Lots. Two or more lots may be merged together into a single lot, without needing approval under the Subdivision Ordinance, provided:~~
 - ~~i. — the resulting lot will not cause any new or more severe nonconformities,~~
 - ~~ii. — the lot meets requirements of the County Health Department, and~~
 - ~~iii. — evidence is provided that the resulting lot has been filed with the County Land Records Office as a single lot.~~

4.3 Nonconforming Uses. If a lawful nonconforming use exists at the effective date of this Ordinance or amendment that would not be allowed under the current regulations, ~~such~~ the “nonconforming use” may be continued subject to **Subsection 4.6 and Section 8**, provided it remains otherwise lawful, subject to the following provisions:

- a. Any expansion of a nonconforming use shall require approval by the Board of Zoning Appeals, except:
 - (1) A nonconforming dwelling may be expanded, moved, or extended within a permit issued by the Zoning ~~Inspector–Administrator~~, provided that no new or increased nonconformity is created.
- b. A nonconforming use may be expanded by a maximum total of ~~twenty-five (25%)~~ percent beyond the total floor area or land area, whichever is more restrictive, occupied by such use at the time the use became nonconforming, provided all other requirements of this Ordinance are met.
 - (1) Therefore, for example, a use might be expanded by ~~ten (10)~~ percent at one time and ~~fifteen (15%)~~ percent a later time, to result in the total maximum of ~~twenty-five (25%)~~ percent.
 - (2) The number of dwelling units shall not be increased as part of expansion of a nonconforming residential use.
- c. A nonconforming use may be changed to a different type of nonconforming use provided that the Board of Zoning Appeals, by making findings in the specific case, determines that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.
 - (1) A nonconforming use may be changed by right to a nonconforming use that the Zoning ~~Inspector–Administrator~~ determines is the same type, such as from one indoor retail store to another indoor retail store.
- d. If a nonconforming use is replaced by a permitted use, then a nonconforming use shall not be resumed in the future.
- e. If a nonconforming use is discontinued or abandoned for 12 consecutive months, then any subsequent use of the structure and land shall comply with the applicable district regulations of this Ordinance.
- f. Where nonconforming use status relates to a principal structure, then removal or destruction of the structure shall eliminate ~~such the~~ nonconforming status of the land.
- g. A nonconforming use shall not be moved unless ~~such the~~ movement would reduce the nonconformity.

4.4 Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance because of lot area, yards or other dimensional requirements, ~~such the~~ structure may be continued subject to **Section 6** of this section, provided it remains otherwise lawful, and subject to the following provisions:

- a. No ~~such~~ structure may be enlarged or altered in a way which increases its nonconformity except by authority of the Board of Zoning Appeals.
- b. Should ~~such the~~ structure be destroyed to an extent of more than eighty (80%) percent of the structure's replacement costs at time of destruction as determined by the owner's insurance company report and/or as reviewed by the Board of Zoning Appeals, it shall not be reconstructed except in conformity with the provisions of this Ordinance or upon authority of the Board of Zoning Appeals.
 - (1) However, this Ordinance shall not prohibit the replacement of a destroyed residence, provided:
 - i. ~~The~~ resulting dwelling is completed within twenty-four (24) months after the destruction and
 - ii. ~~No~~ new or increased nonconformities are created.
- c. A nonconforming structure shall not be moved in a manner that would result in increased or new nonconformities.
- d. The above provisions do not apply to replacement poultry houses on existing poultry ~~farms~~ operations or poultry ~~farms~~ operations that have not been inactive for more than three (3) years. Existing setbacks for replacement will be extended to a new ~~chicken~~ poultry house to allow consistency on the property and to avoid economic hardship for growers wishing to expand their operations. The footprint of the ~~non-conforming~~ nonconforming ~~chicken~~ poultry house may be increased to meet current grower requirements.

4.5 Conditions. In any action by the Board of Zoning Appeals involving nonconformities, the Board may require appropriate conditions and safeguards to protect the public health and safety and to assist in meeting the objectives of this Ordinance.

4.6 Elimination of Certain Nonconformities. Certain nonconformities shall be terminated in accordance with the following provisions:

- a. Within a maximum of two (2) years after the effective date of this Ordinance or amendment by which a use becomes nonconforming, the right to maintain the following nonconformities shall terminate and ~~such the~~ nonconformities shall no longer be operated or maintained and must be removed:
 - (1) All junk yards;
 - (2) A nonconforming use that is not located at least partially within a structure.
- b. Off-Site Signs. Within a maximum of five (5) years from the effective date of this Ordinance or amendment of this Ordinance, all nonconforming off-site signs shall be removed from the R-1, R-2, R-3, MRC and C-1 districts.
- c. Mobile Homes, Manufactured Homes and Recreational Vehicles. Removal of a nonconforming mobile home, manufactured home or recreational vehicle for a 90 day period shall constitute loss of nonconforming status for the site on which said nonconforming recreational vehicle, manufactured home or mobile home is located.

- d. ~~In the instance when a nonconforming recreational vehicle or mobile home is removed from the site but is replaced by another recreational vehicle, or mobile home within the 90-day period which is owned by a second person, then the new owner shall apply to the Board of Zoning Appeals for review as a continued nonconforming use on the site. Replacement by the original owner does not require reapplication.~~ (Special Exceptions 'run with the land' and not property owners)

4.7 Repairs and Maintenance.

- a. On any structure devoted in whole or in part to any nonconforming use; work may be done in any period of ~~twelve (12)~~ consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls fixtures, wiring or plumbing, to an extent not exceeding ~~ten (10%)~~ percent of the current replacement value of the structure, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Ordinance shall not be increased.
- b. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of ~~such~~ the official.

4.8 Special Exception Uses are Not Nonconforming Uses. Any use permitted as a Special Exception as provided in this ordinance shall not be deemed a ~~non-conforming~~ nonconforming use, but shall without further action be deemed a conforming use in ~~such~~ the district.

4.9 Nonconforming Yards and Lot Area. Whenever an existing structure does not conform to the yard or lot area requirement, repair and maintenance can be performed provided that the existing yards or lot area are not reduced or altered. No ~~such~~ existing yard or lot area may be altered without approval of the Board of Zoning Appeals.

SECTION 5 **ZONING DISTRICTS**

The following zoning regulations shall apply within the following zoning districts, as set forth in this Section 5.

5.1 Enumeration of Districts. (NEW Section – Standard language) For the purposes of this Ordinance, the unincorporated area of Somerset County is hereby divided into the following zoning districts:

a. Base Zoning Districts:

- (1) Agricultural Rural District (AR)
- (2) Conservation District (CO)
- (3) Low-Density Residential District (R-1)
- (4) Medium-Density Residential District (R-2)
- (5) High-Density Residential District (R-3)
- (6) Maritime-Residential-Commercial District (MRC)
- (7) Mixed-Use Village District (C-1)
- (8) General Commercial District (C-2)
- (9) Light Industrial District (I-1)
- (10) General Industrial District (I-2)

b. Overlay Zoning Districts:

- (1) Airport Overlay District (AP)
- (2) Overlay Commercial District (O-C)
- (3) Critical Area Overlay District (CA-1)

c. Floating Zones:

- (1) Planned Unit Development Floating Zone District (PUD)
- (2) Utility Scale Solar Energy Facility Floating Zone District (SEF)

5.2 Purposes of Each Zoning District. Each district is intended to serve the following major purposes, in addition to serving the overall purposes and objectives of this Ordinance.

a. Base Zoning Districts. (See September 28, 2018 Planning Commission Memorandum)

- (1) ~~AR-Agricultural Residential Rural~~ District (AR) - To provide for a full range of agricultural activities and to protect agricultural land from encroachment by incompatible land uses, thereby encouraging a stable agricultural economy. The agricultural district also permits low density residential and community service uses. This district also provides a land reserve for future development.
- (2) ~~CO~~ Conservation District (CO) - To identify and conserve the natural resources and concentrations of wetlands so that they may remain a haven for wildlife and

conservation. Within such areas many important natural processes are performed. To permit very low intensity uses in portions of this District that may prove suitable. This will help to facilitate the efficient and economical provision of governmental services at selected development areas elsewhere in the County, thus creating reasonable service areas where practical.

- (3) ~~R-1~~ Low Density Residential District (R-1) - To provide attractive and desirable living environments at a relatively low density. Quiet, hazard free, uncongested residential neighborhoods are encouraged. Single family detached residences and compatible structures and uses are permitted.
- (4) ~~R-2~~ Medium Density Residential District (R-2) - To provide attractive and desirable living environments at a moderate density. Quiet, hazard free, uncongested residential neighborhoods are encouraged. A mix of housing types are provided, with multi-family dwellings needing special exception approval. To provide for compatible uses, while prohibiting incompatible uses.
- (5) ~~R-3~~ High Density Residential District (R-3) - To provide attractive and desirable semi-urban living environments within selected areas of the County. Pleasant, hazard free, uncongested residential neighborhoods are encouraged. A wide variety of dwelling unit types are permitted and a higher density level is encouraged within the district compared to the other residential districts so as to provide more compact and efficient neighborhood arrangements.
- (6) ~~MRC~~ Maritime-Residential-Commercial District (MRC) - To provide for a mix of uses in a compatible manner. To include the growing recreational activities which are particularly suited to waterfront areas. Water related residential and commercial uses are to be located in this district. Measures are to be taken to limit adverse aspects, which may result from locating commercial and residential uses close to each other.
- (7) ~~C-1~~ Mixed Use Village District (C-1) - To provide areas in which the daily shopping and business needs of nearby residents can be met. This district contains retail and service uses, which serve the needs of the neighborhood populations. To encourage the preservation of historic buildings and historic villages by prohibiting heavy intense auto-related commercial uses that are most likely to spur demolition.
- (8) ~~C-2~~ General Commercial District (C-2) - To encompass commercial activities, which can best be located adjacent to major highways. The uses contained in this district cater to the needs of highway tourists and travelers. Uses are included in this district, which require access to major highways and high volumes of traffic. The requirements of local and regional population are to be met in this district. Also, to

provide appropriate locations for intensive commercial activities. Provision is made for the accommodation of a wide range of business pursuits, including retail, wholesale, storage, and contracting activities.

- (9) ~~I-1~~ Light Industrial District (I-1) - To contain industrial uses, which have limited effects upon surrounding land use. Uses permitted in this district include those related to fabricating, warehousing, and wholesale distributing without obnoxious characteristics. No use is to be permitted which will create offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences. To also provide for selected commercial uses.
- (10) ~~I-2~~ General Industrial District (I-2) - In this district are permitted those manufacturing, processing, and storage uses which would be separated from other uses by reasons of characteristics, which may harmfully affect other uses. The exclusion of other uses is intended to promote the economic welfare of the County by reserving especially suited sites for industry and by controlling the mingling of incompatible uses. To also provide for selected commercial uses.

b. Overlay Zoning Districts:

- (1) ~~AP~~ Airport District (AP) - ~~To provide for the compatibility of local airports and adjacent land areas. The uses contained in this district shall apply to any present and future airports.~~ The purpose of this district is to regulate and restrict the heights of constructed structures and objects of natural growth, create appropriate zones, establish the boundaries thereof, and provide for changes in the restrictions and boundaries of such zones, create the permitting process for use within said zones and provide for enforcement, assessment of violation penalties, an appeals process, and judicial review. **(NEW Definition)**
- (2) ~~O-C~~ Overlay Commercial District (O-C) - ~~See Section 5.5.a.~~ **(The following was moved from in between General Commercial District and Light Industrial District. The language was taken directly from the current code section 5.5a).** The O-C district is intended to encourage well-planned and well-coordinated development at selected key existing intersections along a major highway. A development under this section is required to provide well-coordinated traffic access, substantial landscaping, and coordinated site planning. In return, a developer may be permitted to develop business uses that otherwise would not be permitted in the underlying zoning district. This district is primarily intended to apply along U.S. Route 13. It is the intent that this district would be expanded in the future along Maryland Route 413, once that highway is “dualized” to include four **(4)** lanes of through – traffic.

- (3) Critical Area Overlay District (CA-1) - **(The following is taken and adapted slightly from the Critical Area Ordinance Chapter 1-102 Purpose and Intent).** The Critical Area Overlay District is intended to minimize adverse impacts on water quality that result from pollutants that are discharged from structures or runoff from surrounding lands, conserve fish, wildlife, and plant habitat, and establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area. **(The following sentence is new).** The requirements, processes, and standards in the Somerset County Critical Area Overlay District Ordinance apply to all land uses and development located in the Critical Area Overlay District (CA-1). See the Critical Area Ordinance.

c. Floating Zones.

- (1) Planned Unit Development (PUD) - **(The following is taken from the current ordinance Section 14.1 and 14.2 ‘Definition of PUD’ and ‘Purposes’).** An area of land developed as a single entity, in approved phases, which is totally planned to provide for a variety of residential, commercial, and related uses, as well as common areas or open space. The purpose of this provision is to encourage well-designed, larger scale developments which provide a balanced mix of land uses, including a variety of housing types and commercial uses, within a planned environment in accordance with the goals of the Comprehensive Plan. It is designed to allow for flexibility of design and innovative techniques, as well as to provide a high degree of environmental protection. Furthermore, it is intended that planned unit developments incorporate green building and infrastructure designs wherever possible. This is accomplished by providing a simplified mechanism for review and approval of the project, while maintaining adequate standards and safeguards. A ~~PUD~~-planned unit development is not mapped, which allows for increased flexibility in appropriate locations where necessary infrastructure and services are accessible.
- (2) GA-Growth Allocation Floating District (GA) - ~~See Section 6.15.a.~~ **(Please note that the Section governing Growth Allocations was repealed and has become a part of the new Critical Area Ordinance – the following language was taken from the previous section 6.15 ‘Overall Requirements’).** The Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas (RCA) and/or Limited Development Areas (LDA) within the ~~CA-1~~ Critical Area Overlay District (CA-1). The purpose of the floating district is to permit a change in the current land management classification on specific sites and for specific development projects so that they may be developed to the extent permitted by the underlying zoning classification and the new land use management classification. **(The following sentence is new)** Only projects which have been

approved by the County Commissioners for award of the Critical Area Growth Allocation are eligible for the floating zone district. See the Somerset County Critical Area Ordinance for standards and procedures.

~~BT Business Technology Corridor District – See Section 5.4.~~ **(This section is proposed for removal as it has not been used since it was created)**

(3) Utility Scale Solar Energy Facility Floating District (SEF) - The purpose of the utility scale solar floating zone is to allow for the orderly development of utility scale solar energy facilities **typically** generating more than two (2) megawatts in electricity (AC) that are appropriately sited and sized. Furthermore, it is intended that utility scale solar energy facilities are not placed on prime agricultural lands, are aesthetically attractive, are placed so as to protect the commercial viability of the U.S. Route 13 and M.D. Route 413 corridors, and are compatible with the surrounding neighborhood.

5.3 Uses Permitted in Each Zoning District. Except as specifically stated otherwise by this Ordinance, only the following uses ~~shall~~ will be permitted in the applicable zoning district where the structure or use is located. See **Section 5.4** regarding uses that are similar to permitted uses. Uses ~~shall~~ will only be permitted if there is compliance with all other requirements of this Ordinance.

~~For the BT Business and Technology Corridor District, see Section 5.4.~~

5.4 Similar Uses and Uses Not Addressed by this Ordinance **(Previously Section 7.8)**

- a. Closely Similar Use. If a use is proposed that the applicant proves to the satisfaction of the ~~Chief Zoning Inspector~~ Administrator would be very closely similar to an allowed use or would fit within a use category, then the ~~Chief Zoning Inspector~~ Administrator may at his/her discretion approve ~~such~~ the closely similar use in the same manner as the use provided for in this Ordinance. If the ~~Chief Zoning Inspector~~ Administrator does not approve ~~such~~ the use, the applicant may follow the process provided in part “(b).” below.
- b. Board of Zoning Appeals. If a use is not permitted by right or by special exception in any district under **Section 5.7**, the use is prohibited, except that the Board of Zoning Appeals may permit ~~such~~ the use as a special exception if the applicant proves to the satisfaction of the Board that all of the following conditions would be met:
 - (1) ~~T~~he use would be closely similar or less intensive in external impacts and nuisances compared to uses that are permitted in that district;
 - (2) ~~T~~he use would not create a significant hazard to the public health and safety;
 - (3) ~~T~~he use is not specifically prohibited in that district; and
 - (4) ~~T~~he use is similar in character to uses permitted in that district or fits within one (1) of the use categories.
- c. On commercial and industrially zoned sites, leased sites for additional uses are allowable without approval of the Board of Zoning Appeals if they are compatible and/or similar to the existing use and do not otherwise require a Special Exception within that zone. In

matters that are deemed unclear or disputed, the Board of Zoning Appeals will render the decision.

5.5 Accessory Uses Regulations. (NEW Section – standard language)

a. General Regulations. The general regulations of this subsection apply to all accessory uses and structures unless otherwise expressly stated.

(1) Accessory uses and structures are permitted in connection with lawfully established principal uses.

(2) The Zoning Administrator is authorized to determine when a use, building, or structure meets the criteria of an accessory use or structure. In order to classify a use or structure as ‘accessory,’ the Zoning Administrator must determine that the use or structure:

- i. Is subordinate and clearly incidental to the principal structure or use served in terms of area and function;**
- ii. Provides a necessary function for or contributes to the comfort, safety, or convenience of occupants of the principal use; and**
- iii. Is customarily found in association with the subject principal use or structure.**

(3) Time of Construction and Establishment. Accessory uses and structures may be established only after the principal use of the property has commenced and accessory buildings may be erected at the same time as or after the principal building is erected.

5.6 Temporary Uses. (NEW Section – standard language)

a. Temporary Use, Emergency. The Zoning Administrator may permit temporary buildings, structures, and uses needed as the result of a natural disaster or other health and safety emergencies for the duration of the emergency.

b. Temporary Use, Construction. Temporary buildings and structures, including trailers for uses incidental to construction work on the premises may be permitted in any district where construction is being done by a responsible contractor or builder under a contract having a definite completion date and on the condition that the temporary buildings and structures be removed upon the completion or discontinuance of construction. However, no person shall sleep or reside in temporary use structures while so used.

c. Temporary Use, Sales. The Zoning Administrator may permit one (1) trailer, or the use of one (1) building as a temporary field or sales office in connection with building development. The temporary sales trailer must be removed at the point in time when all the residential lots have been sold and the sales office is closed. Neither the trailer nor the building shall be used for living or sleeping other than for overnight security purposes.

P=Permitted by Right Use

N=Not Permitted

SE=Permitted as a Special Exception Use (Approved by Board of Zoning Appeals)

*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
5.7(a) AGRICULTURAL USES												
1.	Crop Farming, Plant Nurseries, Indoor Plant Cultivation, and routine accessory packaging, storage or light processing of crops or wood products (see also under “Industrial Use”). This use may also include:	P	P	P	P	P	P	P	P	P	P	P
	- An accessory farm office;											
	- Sale of seeds, fertilizer and similar agricultural needs;											
	- Greenhouses, provided that within a R-1, R-2, or R-3 district, any commercial greenhouse of over 5,000 square feet of floor area shall must be setback a minimum of 200 feet from any residential lot, and/or;											
	- An orchard, or a winery.											
This use shall not include a slaughterhouse or meat packing plant.												
2.	Farm Brewery, Distillery, or Winery – See Section 5.12.	SE	SE	N	N	N	N	N	N	N	N	N
3.	Fisheries Activities, (see definition in Section 16), provided that crab shedding and the manufacture and storage of usable crab-pots and similar items shall be is permitted as an accessory use where the use is allowed, but that outdoor storage of junk or unusable items shall is not be permitted. This does not include on-site retail stores or seafood processing unless such the uses are permitted by zoning district regulation.	P	P	SE	SE	N	P	P	P	P	P	P
4.	Aquaculture. (see Definition in Section 16) see fisheries above.	-	-	-	-	-	-	-	-	-	-	-
5.	Commercial Raising of Livestock, not including poultry, provided there is a 10 acre minimum lot area and provided any such structure and any related manure storage area is setback a minimum of 200 feet from: a) any lot zoned R2, R3, or MRC, and b) any dwelling on another lot or any school, place of worship, or day care center.	P	P	SE	SE	SE	SE	P	P	P	P	P

P=Permitted by Right Use

N=Not Permitted

SE=Permitted as a Special Exception Use (Approved by Board of Zoning Appeals)

*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE			AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	a)	No increased setback under this Section shall apply if a written waiver of the setback is provided by the owner of the lot from which the larger setback would be required. Such The waiver shall must be filed with the deed.											
	b)	However, such the 200 feet setback shall be increased to 300 feet within the R1 district.											
	c)	This use shall not include a bulk slaughterhouse.											
6.	Commercial Raising of Poultry – See Section 5.8(l) .		P	P	SE	SE	SE	SE	P	P	P	P	P
7.	Garbage Feeding of Pigs/Hogs, or Raising of 2,000 or more Pigs/Hogs shall must be setback a minimum of 1,500 feet from any school, place of worship, day care center, or a dwelling located on another lot.		SE	N	N	N	N	N	N	N	N	N	N
8.	Forestry, which may include accessory sawmills and equipment sheds, provided that any structure is setback a minimum of 200 feet from any dwelling (see also as industrial use).		P	P	P	P	P	P	P	P	P	P	P
9.	Roadside Produce Stand, as a seasonal accessory use, provided that the majority of products for sale were produced on the premises or on land controlled by the operator of the stand, and provided the use involves a maximum of 3,000 square feet of building floor area.		P	SE	N	N	N	P	P	P	P	P	P
10.	Spreading of Treated Municipal Sewage Sludge or Household Septage		SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
5.7(b) RESIDENTIAL USES													
1.	Single Family Detached Dwelling (may include stick-built, modular, or double-wide or greater manufactured homes)		P	P	P	P	P	P	P	N	N	N	N
2.	Mobile & Manufactured Homes/Other Homes		SE	N	N	N	SE	SE	N	N	N	N	N
	See Section 5.8(g) for mobile/manufactured homes and other homes not meeting development and siting requirements for single family												

P=Permitted by Right Use

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*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	dwellings.											
3.	Mobile/Manufactured Home Park – See Section 5.8(g).	N	N	N	N	SE	N	N	N	N	N	N
4.	Twin Dwellings (Antiquated term)	N	N	N	P	P	P	SE	N	N	N	N
5.	Two-Family Dwellings	N	N	N	P	P	P	SE	N	N	N	N
6.	Townhouse	N	N	N	P	P	P	SE	N	N	N	N
7.	Multi-Family Dwellings (Apartments)	N	N	N	SE	P	P	SE	N	N	N	N
8.	Dwelling unit, Mixed-Use Building, residential, one in combination with a permitted commercial use.	SE	N	N	N	N	P	P	P	N	N	N
9.	Group Domiciliary Care Home within a lawful existing dwelling unit in conformance with Section 5.8(c).	P	P	P	P	P	P	P	P	N	N	N
10.	Hunting and fishing cabin used only as a temporary residence and not connected to public utilities. No cabin shall be considered a dwelling.	P	P	N	N	N	P	N	N	N	N	N
11.	Accessory Dwelling Unit– See Section 5.10, (*NEW Provisions) ; one, to serve a “relative” of the occupant of the principal dwelling unit on the lot provided that:	P	SE	SE	P	P	P	P	P	N	N	N
	a) the applicant shall prove that the accessory dwelling unit is needed to care for a person with physical or developmental disabilities, old age or illness,											
	b) the definition of “relative” in Section 16 shall apply,											
	c) a legally binding mechanism shall be in place to make sure that such dwelling unit shall be made part of the principal dwelling unit, completely removed or converted into another permitted use after it is no longer occupied by such a relative,											
	d) if a detached building is newly placed or constructed to house the accessory dwelling unit, it shall meet principal building setbacks, and											

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ZONING DISTRICT

USE			AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	e)	the use shall require annual renewal of a zoning permit. The applicant shall prove that the requirements of this subsection will still be met before the permit may be renewed.											
12.	Boarding or Lodging House		N	N	N	N	N	N	SE	N	N	N	N
13.	Farm Labor Camp, provided such structures are is setback a minimum of 200 feet from all lot lines.		SE	N	N	N	N	N	N	N	N	N	N
14.	Recreational Vehicle or Travel Trailer licensed by the State for on-road travel, to be used as a temporary residence on a lot for a maximum of 30 days in a year, and provided there are suitable sanitary facilities, with a maximum of one 1 per lot.		SE	SE	N	N	N	N	N	N	N	N	N
15.	Planned Unit Development. See Section 7.4. (Added to chart)		P	N	P	P	P	N	N	N	N	N	N

5.7(c) PUBLIC OR INSTITUTIONAL USES

1.	Camp or Campground, public/commercial or private, for temporary seasonal use (plus this may include one 1 dwelling for caretaker(s)), provided that:												
	a)	B uildings and recreational vehicle parking shall must be separated by a minimum of 100 feet of preserved woods or landscaping from any exterior lot line or public road,	SE	SE	N	N	N	SE	SE	SE	SE	SE	SE
	b)	T he applicant shall must prove that suitable water, sewage and sanitation services will be provided for the number of units approved by the Board of Zoning Appeals, and											
	c)	T he facility shall is permitted to be inhabited a maximum of 120 days per year by any individual, other than bona fide caretakers.											

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
2.	Cemetery, provided any crematorium shall be setback a minimum of 300 feet from a lot line, and that any new cemetery shall include on a minimum of 10 acres, unless it is accessory to a place of worship on the same lot. Graves and buildings shall must not be placed in the required minimum front yard	P	SE	P	P	P	P	P	P	P	P	P
3.	Crematoriums shall must be setback a minimum of 300 feet from a lot line. (*Moved from Cemetery – above)	N	N	N	N	N	N	N	SE	SE	P	N
4.	Civic Center.	N	N	N	N	N	N	P	P	P	P	P
5.	College or University (other than research center described below), which may include accessory housing for bona fide (added space between bona and fide) students and staff, provided that any newly constructed student housing shall be is setback a minimum of 200 feet from any adjacent residential lots lines that are not in the same ownership.	N	N	N	P	P	P	P	P	N	P	P
6.	Community Center or Library	P	P	P	P	P	P	P	P	P	P	P
7.	County-owned or Sanitary District-owned Use for a Public or Utility Purpose (Other than landfill). Such lots shall be are exempt from minimum lot area and lot width requirements.	P	P	P	P	P	P	P	P	P	P	P
8.	Day Care Center, Group , licensed by the State of Maryland, with a minimum lot area of 20,000 square feet in a residential district.	SE	SE	SE	SE	SE	SE	P	P	SE	SE	N
9.	Emergency Services Station	P	P	P	P	P	P	P	P	P	P	P
10.	Environmental Agricultural or Aquaculture Research Center											
	- Involving intense poultry raising	SE	SE	SE	SE	SE	SE	P	P	P	P	P
	- Other types	P	P	P	P	P	SE	P	P	P	P	P
11.	Hospital or Surgery Center	N	N	N	SE	SE	P	P	P	P	P	N
12.	Membership Club – Recreation and Meeting Uses, other than uses listed separately in this Table.	P	P	SE	SE	SE	SE	P	P	P	P	P
13.	Monastery or Convent, Housing Full-Time Paid Religious Staff .	SE	N	N	N	SE	SE	SE	SE	N	N	N

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
14.	Museum	P	P	SE	SE	SE	SE	P	P	P	P	P
15.	Nursing Home or Personal Care Center, Continuing Care Retirement Community with a minimum lot area of 2 acres, which may be combined with permitted dwellings to form a Continuing Care Community. See density bonus in Section 5.7. (See definition)	N	N	SE	SE	P	SE	P	P	P	P	N
16.	Place of Worship (includes Church and one 1 dwelling for bona fide (added space between bona and fide) full-time paid staff and his/her family), with a minimum lot area of 3 acres in a residential district and a minimum building setback of 40 feet from any lot line of a dwelling, and provided that any related uses shall require acquire separate approval. A Place of Worship in a residential district shall must be located adjacent to an arterial or collector road, as opposed to a local or private road. Any vehicle parking area shall must be setback 20 feet from the lot line of a dwelling.	P	P	P	P	P	P	P	P	P	P	P
17.	Prison (other than a "County-owned use")											
	- Owned by State or Federal Government	SE	N	N	N	N	N	N	N	P	P	N
	- Other, with a minimum lot area of 10 acres and a 600 feet setback from any lot occupied by a dwelling, school, place of worship, or day care center.	N	N	N	N	N	N	N	N	N	SE	N
18.	Public Buildings – Administrative or Cultural	P	P	P	P	P	P	P	P	P	P	P
19.	Recreation or Nature Conservation Areas, Non-Commercial or Public	P	P	P	P	P	P	P	P	P	P	P
20.	School, Public, or Private Primary or Secondary	P	P	P	P	P	P	P	P	P	P	N
21.	Swimming Pool, other than as accessory to a dwelling.	P	P	SE	P	P	P	P	P	P	P	P
22.	Treatment Center – See Section 5.8(i).	N	N	N	N	N	N	N	SE	N	N	N
23.	U.S. Postal Service Facility	P	P	SE	P	P	P	P	P	P	P	P
24.	Visitor Center or Tourism Information Center	P	P	SE	P	P	P	P	P	P	P	P

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
5.7(d) COMMERCIAL USES												
1.	Adult Use, within the requirements of Section 5.8(a) .	N	N	N	N	N	N	N	N	N	SE	N
2.	Airport, provided:	SE	N	N	N	N	N	N	N	SE	SE	P
	a) All runways, landing strips, refueling areas, fuel storage, and taxi areas shall must be setback a minimum of 1,000 feet from any lot occupied by a dwelling, school, place of worship, or day care center, and that buildings be setback a minimum of 200 feet from any lot adjacent lot line where there is an occupied by a dwelling, school, place of worship, or day care center.											
	b) Permitted accessory uses shall include: 1) repair, maintenance, construction, and storage of aircraft; 2) sale and storage of aircraft fuel, provided it is setback a minimum of 200 feet from dwellings; and 3) rental of motor vehicles or aircraft.											
	c) All facilities shall conform to current Federal Aviation Administration (FAA) and Maryland Aviation Administration (MAA) regulations. (NEW)											
3.	Antenna, Commercial Communications, provided it is setback a distance equal to its height from any lot line of a dwelling, school, place of worship, or day care center not located on the premises.	SE	N	N	N	N	N	N	P	P	P	SE
	a) However, in any district as a permitted by right use, a new antenna may: (1) be placed on an existing tower that does not increase its height, or (2) may extend up to 25 feet above an existing water tower, church steeple, agricultural structure, electric transmission tower, stadium light standard, or similar feature that the antenna is attached to.											
	b) An application for a communications tower shall must be accompanied by a signed a statement agreeing to completely remove the tower within 90 days after it is no longer in service.											

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ZONING DISTRICT

USE			AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	c)	For an antenna over 200 feet 199 feet or greater in height, the applicant shall must provide a written statement explaining why such height is necessary.											
	d)	All facilities shall conform to current Federal Aviation Administration (FAA) and Maryland Aviation Administration (MAA) regulations. (NEW)											
4.	Auto Repair Garage or Auto Body Shop, provided:		N	N	N	N	N	N	N	P	P	P	N
	a)	Bulk storage of flammable materials shall meet State requirements, including the Fire Marshall, Maryland Department of the Environment, and all other applicable State regulations; (NEW)											
	b)	Vehicle entrances or exits shall must be setback a minimum of 50 feet from a lot an adjacent lot line in a residential district;											
	c)	Any outdoor overnight storage of junk, scrap or auto parts shall must be screened from view from roads and other lots by opaque fencing, landscaping, or a wall;											
	d)	In no case shall the building be erected within 30 feet of a dwelling on an adjacent lot;											
	e)	Vehicles shall must not be stored or parked within a road right-of-way, nor in a location that obstructs safe sight distances.											
	See also under: a) “Accessory uses” in this table below and b) “Home Occupations” in Section 5.8(d).												
5.	Automobile Sales or Rentals, or Sales of Recreational Vehicles, Farm Equipment, Boats or Mobile Homes for off-site use, provided that any mobile or manufactured homes that are displayed shall meet yards requirements for a principal building.		N	N	N	N	N	N	SE	P	P	P	N
6.	Automobile Rental as accessory to an Airport-		N	N	N	N	N	N	N	P	P	P	P

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
7.	Bakery or Custom Food Manufacturing	N	N	N	N	N	SE	P	P	P	P	N
8.	Banks and other financial institutions	N	N	N	N	N	SE	P	P	P	P	N
9.	Bed and Breakfast Inn, within the requirements of Section 5.8(b).	SE	SE	SE	SE	SE	SE	P	P	P	P	N
10.	Building Contractor's Headquarters (such as plumbing or HVAC) (other than as home occupation)	N	N	N	N	N	SE	P	P	P	P	P
	Campground – See under Public or Institutional Uses above.	-	-	-	-	-	-	-	-	-	-	-
11.	Car Wash	N	N	N	N	N	N	SE	P	P	P	N
12.	Commercial Recreation, including bowling alleys, miniature golf courses, driving ranges, go-kart and miniature vehicle tracks, and similar uses, but not including racetracks.	SE	SE	N	N	N	SE	P	P	P	P	P
13.	Accessory Commercial Use to a principal agricultural use, (such as custom welding and custom repairs) provided the use: a) does not involve more than 3,000 square feet of building floor area, b) does not generate nuisances or hazards in excess of those typically associated with agricultural activities, and c) is on a lot with a minimum lot area of 10 acres.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
14.	Crafts or Artisan's Studio (other than as home occupation)	N	N	N	N	N	P	P	P	P	P	N
15.	Exercise Club	N	N	N	N	N	N	P	P	P	P	N
16.	Flea Market or Auction House	N	N	N	N	N	SE	P	P	P	P	P
17.	Funeral Home	N	N	N	N	N	SE	P	P	P	P	N
18.	Gas Stations or Electric Vehicle Charging Stations, meeting the same requirements as an Auto Repair Garage.	N	N	N	N	N	SE	SE	P	P	P	N
19.	Golf Course, which may include accessory putting greens, driving ranges, golf shops, club house, locker room, snack bar, and closely similar accessory uses.	P	P	P	P	P	P	P	P	P	P	P
20.	Hotel or Motel	N	N	N	N	N	SE	SE	P	P	P	P

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
21.	Kennel, provided that all structures and runways are setback a minimum of 200 feet from all lot lines.	P	P	N	N	N	N	N	P	P	P	N
22.	Laundromat;	N	N	N	N	N	P	P	P	P	P	N
23.	Microbreweries, Brewpubs, and Distilleries	N	N	N	N	N	N	SE	SE	SE	SE	N
24.	Offices (other than as home occupation);	SE	N	N	N	N	P	P	P	P	P	P
25.	Personal Service Business such as shoe repair, haircutting/hairstyling, and dry-cleaning (other than as home occupation), provided that in the AR district the personal service business shall be is limited to a maximum floor area of 3,000 square feet.	SE	N	N	N	N	P	P	P	P	P	N
26.	Photo-processing;	N	N	N	N	N	N	P	P	P	P	N
27.	Printing or Photocopy, Custom;	N	N	N	N	N	N	P	P	P	P	N
28.	Race track (other than go-karts);	N	N	N	N	N	N	N	SE	SE	SE	N
29.	Recreational Vehicle storage and service, temporary facility for uninhabited vehicles.	N	SE	N	N	N	SE	P	P	P	P	P
30.	Recycling Collection Center (see also as industrial or County-owned use);	N	N	N	N	N	SE	P	P	P	P	N
31.	Repair Service, Household Appliance (other than Home Occupation)	N	N	N	N	N	SE	P	P	P	P	N
32.	Restaurant, with drive-through service;	N	N	N	N	N	N	SE	P	N	N	N
33.	Restaurant, without drive-through service;	N	N	N	N	N	SE	P	P	N	N	N
34.	Retail Store, other than an Adult Use, and provided that in the AR district the retail store is shall be limited to a maximum floor area of 3,000 square feet; (See also Section 5.8(g) - Accessory Uses).	SE	N	N	N	N	SE	P	P	N	N	N
35.	Sale or refinishing of bona fide (added space between bona and fide) antiques, within a completely enclosed building.	SE	SE	N	N	N	P	P	P	P	P	P
36.	Schools for Hobbies or Trades;	N	N	N	N	N	SE	P	P	P	P	P
37.	Stable, commercial, provided there is a 20-acre minimum lot area,	P	P	P	P	P	P	P	P	P	P	P

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	and a 200 foot setback for such buildings structures from any side and rear lot line, and provided a minimum of 1 acre is provided for each adult animal.											
38.	Tavern,	N	N	N	N	N	N	P	P	N	N	N
	Target Range for Firearms (The following language was previously adopted, but not yet incorporated – Ordinance#1062), not including a range operated by an individual and used exclusively by such the individual and his guests.											
39.	a) Within a completely enclosed building	P	P	N	N	N	P	P	P	P	P	P
	b) other Outside, provided the use is setback a minimum of 1,000 feet from any lot occupied by a school, place of worship, institution for human care or any dwelling not located on the same lot.	SE	SE	N	N	N	SE	SE	SE	SE	SE	SE
40.	Temporary circuses, carnivals, or similar transient enterprises sponsored by an IRS-recognized incorporated charitable or community service organization, provided such the use shall not exceed 10 days and does not include any permanent structures.	P	P	N	N	N	P	P	P	P	P	P
41.	Theater, other than an adult use.	N	N	N	N	N	N	P	P	P	P	N
42.	Veterinary Clinic or Animal Hospital, provided all areas used for the keeping of animals outside of a completely enclosed building shall be are setback a minimum of 200 feet from all lot lines.	P	P	N	N	N	SE	P	P	P	P	N

5.7(e) INDUSTRIAL USES

1.	Agricultural or Wood Product packaging or processing, provided that all such structures in a non-industrial district are setback a minimum of 200 feet from all lot lines (other than products that were primarily raised by the landowner or tenant – see under “Agricultural Uses” in this table).	SE	SE	N	N	N	SE	P	P	P	P	P
2.	Assembly or custom finishing of materials manufactured off-site	N	N	N	N	N	SE	P	P	P	P	P

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ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
3.	Composting at a Commercial or Industrial Scale. (MRC district did not have direction in current ordinance – added NOT permitted)	SE	N	N	N	N	N	N	N	SE	SE	N
4.	Custom Manufacture of signs or wood products or custom welding or blacksmithing.	N	N	N	N	N	SE	P	P	P	P	P
5.	Electric Generating Facility, Bulk (other than wind, solar or similar facility).	N	N	N	N	N	N	N	N	N	SE	N
6.	Flammable liquids storage and distribution for off-site use, including storage tank farms, provided that:	N	N	N	N	N	N	N	SE	SE	SE	SE
	a) such facilities shall must be setback a minimum of 300 feet from any dwelling, school, place of worship, or day care center, and total storage shall must not exceed 120,000 gallons, except that no maximum shall apply within the I-1 or I-2 districts.											
7.	Grain and Livestock feed, storage, sale and milling of (other than as listed under “Agricultural Uses”), and sale of solid fuel, provided such the operations are setback a minimum of 200 feet from any dwelling, school, place of worship, or day care center.	SE	SE	N	N	N	SE	P	P	P	P	N
8.	Industrial Equipment Sales Rental and Service.	N	N	N	N	N	N	P	P	P	P	N
9.	Junkyard within the requirements of Section 5.8(e).	N	N	N	N	N	N	N	N	N	SE	N
10.	Landfill, Sanitary											
	- Government owned.	SE	N	N	N	N	N	N	N	N	SE	N
	- Other than Government-owned.	N	N	N	N	N	N	N	N	N	N	N
11.	Laundry	N	N	N	N	N	N	P	P	P	P	N
12.	Manufacture or processing of the following:											
	a) Apparel and Textiles (other than as a home occupation)	N	N	N	N	N	N	P	P	P	P	N
	b) Asphalt, Concrete or Cement, actual manufacture of	N	N	N	N	N	N	N	N	N	P	N
	c) Bituminous Products, other than listed separately	N	N	N	N	N	N	N	N	P	P	N

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ZONING DISTRICT

USE			AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	d)	Ceramic, leather, clay and pottery products (other than custom crafts)	N	N	N	N	N	N	P	P	P	P	N
	e)	Concrete, Gypsum or Plaster Products	N	N	N	N	N	N	N	N	P	P	N
	f)	Chemicals											
	-	Bulk manufacture or bulk processing of highly hazardous or chemical products	N	N	N	N	N	N	N	N	N	SE	N
	-	Other chemical products	N	N	N	N	N	N	N	N	SE	SE	N
	g)	Electrical and electronic products or precision instruments	N	N	N	N	N	N	P	P	P	P	P
	h)	Fabricated metal products	N	N	N	N	N	N	N	N	P	P	N
	i)	Food or beverage products, other than uses listed separately	N	N	N	N	N	N	P	P	P	P	P
	j)	Glass and glass products	N	N	N	N	N	N	N	N	P	P	N
	k)	Manufactured or Modular Housing	N	N	N	N	N	N	N	N	P	P	N
	l)	Paints, Enamels, Varnishes, Soaps, or Detergents	N	N	N	N	N	N	N	N	P	P	N
	m)	Paper and Paper Products	N	N	N	N	N	N	N	N	P	P	N
	n)	Pharmaceuticals	N	N	N	N	N	N	N	N	P	P	N
	o)	Plastics, polymers, resins or vinyls	N	N	N	N	N	N	N	N	P	P	N
	p)	Primary Metal Products	N	N	N	N	N	N	N	N	SE	P	N
	q)	Rubber and Rubber Products	N	N	N	N	N	N	N	N	P	P	N
	r)	Seafood packing and processing	N	N	N	N	N	SE	SE	P	P	P	P
	s)	Stone monuments, provided that a use involving power driven tools shall be setback a minimum of 200 feet from any dwelling, school, place of worship, or day care center.	N	N	N	N	N	N	N	P	P	P	N
	t)	Transportation equipment	N	N	N	N	N	N	N	N	P	P	N
	u)	Wood Products and Furniture (other than custom crafts)	N	N	N	N	N	N	P	P	P	P	N
13.	Mineral Extraction meeting Section 5.8(f) (other than oil or gas drilling).		SE	N	N	N	N	N	N	SE	SE	SE	N

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USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
14.	Oil or Gas Drilling, provided the that drill sites are setback a minimum of 200 feet from a dwelling on another an adjacent lot.	P	P	P	P	P	P	P	P	P	P	P
15.	Packaging	N	N	N	N	N	N	P	P	P	P	P
16.	Petroleum Refining	N	N	N	N	N	N	N	N	N	SE	N
17.	Printing, publishing and binding	N	N	N	N	N	N	P	P	P	P	N
18.	Recycling use involving industrial processing (see also under Commercial Uses)	N	N	N	N	N	N	N	P	P	P	P
19.	Research and testing laboratories	N	N	N	N	N	N	N	SE	P	P	N
20.	Sawmill, portable, of a temporary nature, not to exceed 6 months duration on a lot.	P	P	P	P	P	P	P	P	P	P	P
21.	Sawmill or planing mill, which shall must have a minimum setback of 1,250 feet from any school, place of worship, day care center, or dwelling on another lot, provided that such the setback may be reduced to 200 feet if within an enclosed building and if the applicant proves to the Zoning Inspector Administrator that appropriate noise-reduction measures will be used.	P	P	N	N	N	N	SE	P	P	P	N
22.	Self-Storage Development	N	N	N	N	N	N	SE	P	P	P	N
23.	Slaughterhouse or Stockyard, which shall must have a 500 feet minimum setback from any dwelling, schools, place of worship, day care center, or residential district.	N	N	N	N	N	N	N	N	N	SE	N
24.	Soil Remediation, off-site.	N	N	N	N	N	N	N	N	N	SE	N
25.	Solid Waste Bulk Incinerator.	N	N	N	N	N	N	N	N	N	SE	N
26.	Solid Waste Transfer Facility											
	- Government owned.	SE	N	N	N	N	N	SE	SE	SE	SE	N
	- Other	N	N	N	N	N	N	SE	SE	SE	SE	N
27.	Trucking Terminal.	N	N	N	N	N	N	N	N	P	P	N
28.	Utility Scale Solar Energy Facility (SEC Floating Zone – See Section	P	N	N	N	N	N	N	N	N	P	N

P=Permitted by Right Use

N=Not Permitted

SE=Permitted as a Special Exception Use (Approved by Board of Zoning Appeals)

*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
	7.5											
29.	Warehousing or Distribution	N	N	N	N	N	N	N	P	P	P	P
30.	Welding	N	N	N	N	N	N	P	P	P	P	N
31.	Wholesale Sales	N	N	N	N	N	N	P	P	P	P	P
31.	Small Wind Energy System (*Moved to Accessory Use Category)	P	N	P	P	P	P	N	N	N	N	N

5.7(f) MISCELLANEOUS USES												
1.	Parking Lot as the Principal Use of a Lot		N	N	N	N	N	P	P	P	P	P
2.	Private and commercial bathing beaches, bath houses, boat landings and wharves, marinas, boat service areas, boat storage, and construction yards, and similar uses offering services commonly used for water recreational purposes, subject to the following provisions: (see also Retail Store, listed separately)		SE	SE	SE	SE	SE	P	P	P	P	P
	a)	Such structures and uses shall not be located nearer than within 100 feet to of any existing summer home, cabin, or residence.										
	b)	The use complies with all other codes, regulations, laws, and ordinances, including the establishment of bulkhead lines.										
	c)	The proposed design is satisfactory in regard to such safety features such as location of fueling points, fuel storage, the effects on navigation, and the possibilities for water pollution.										
	d)	The use is properly located with respect to access roads and areas of existing and future development.										
	e)	That necessary approval is obtained from the U.S. Army Corp of Engineers.										

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*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
3.	Sewage treatment, centralized facilities, provided such facilities are setback a minimum of 600 feet from any lot adjacent lot line where there is an occupied by a dwelling, school, place of worship or day care center.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
4.	Signs as provided in Sections 8.6, 8.7 and 8.8.	-	-	-	-	-	-	-	-	-	-	-
5.	Uses that are similar to permitted uses – See Section 5.4.	P	P	P	P	P	P	P	P	P	P	P

5.7(g) ACCESSORY USES												
1.	Accessory Structures or Uses that are customarily incidental to permitted uses, such as private garages, barns, and storage buildings.	P	P	P	P	P	P	P	P	P	P	P
2.	Antenna, Commercial Communications – See under “Commercial Uses.”	-	-	-	-	-	-	-	-	-	-	-
3.	Auto Repair – repair of more than two 1 or more motor vehicles on a residential lot, in addition to motor vehicles owned or leased by the lot’s residents or their immediate family (other than as approved as principal use or a home occupation)	N	N	N	N	N	N	N	N	N	N	N
4.	Crab Shedding and Crab Pots – see “Fisheries” in Section 5.8(a).	-	-	-	-	-	-	-	-	-	-	-
5.	Construction, repair and/or storage of a maximum of two 2 boats or other waterborne craft on a residential lot.	P	P	P	P	P	P	P	P	P	P	P
6.	Day Care Home, State-Licensed Family	P	P	P	P	P	P	P	P	P	P	N
7.	Sheltered Care (See definition)	SE	SE	SE	SE	SE	SE	SE	SE	N	N	N
8.	Farm machinery Repair, in addition to machinery of resident of property. (I-2 did not have direction. Added Permitted)	P	N	N	N	N	N	N	P	P	P	P
9.	Home Occupation – see provisions of Section 5.8(d) which permits most home occupations by-right, but requires special exception approval for certain home occupations.	*	*	*	*	*	*	*	*	*	*	*

P=Permitted by Right Use

N=Not Permitted

SE=Permitted as a Special Exception Use (Approved by Board of Zoning Appeals)

*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE		AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
10.	Parking of two or more motor vehicles that do not display current State current registration, outside of an enclosed building, on a residential lot of less than 5 acres. (Added not applicable for commercial and industrial districts)	N	N	N	N	N	N	-	-	-	-	-
11.	Offering for sale of two or more motor vehicles at a time as accessory to a dwelling in a residential district. (Added not applicable for commercial and industrial districts)	N	N	N	N	N	N	-	-	-	-	-
12.	Stable, accessory, with a minimum lot area of 2 acres.	P	P	P	P	P	P	P	P	P	P	P
13.	Temporary structures or storage incidental to on-site construction work, provided such are completely removed upon completion or abandonment of the construction work.	P	P	P	P	P	P	P	P	P	P	P
14.	Retail stores, sales of goods customarily associated with the principal use, such as an outlet store, seafood market, or in the Airport Zone, goods related to aviation. (Added ability with Special Exception to have retail sales in AR, MRC, and C-2)	NSE	N	N	N	N	NSE	N	NSE	SE	SE	SE
15.	Small Wind Energy System, as an accessory use. See Section 5.8(j). (Moved from Industrial Use Category to clarify that this use is only as an accessory to a principal use)	P	N	P	P	P	P	N	N	N	N	N
16.	Small Solar Energy System, as an accessory to a residential use and generating no more than 999kv of electricity. Detached solar energy systems must be visually shielded from public rights of way and occupied dwellings on adjacent lots.	P	P	P	P	P	P	N	N	N	N	N
17.	Medium Solar Energy System, as an accessory to a commercial or industrial use, generating no more than 2 MW of electricity, and not connected to the grid. Detached solar energy systems must be visually shielded from public rights of way and occupied dwellings on adjacent lots. See Section 5.8(k).	SE	N	N	N	N	N	SE	SE	SE	SE	N

Notes for the Table of Uses Permitted in Each Zoning District

* See additional requirements in Section 5.7

P=Permitted by Right Use

N=Not Permitted

SE=Permitted as a Special Exception Use (Approved by Board of Zoning Appeals)

*=See additional standards for this use in Section 5.8

ZONING DISTRICT

USE	AR	CO	R-1	R-2	R-3	MRC	C-1	C-2 &O-C *	I-1	I-2	AP
-----	----	----	-----	-----	-----	-----	-----	------------------	-----	-----	----

** See also Section 5.3

*** The list of uses permitted in the O-C District shall only apply if they will be within a development approved under [Section 7.2](#).
Otherwise, the use regulations of the underlying district shall apply. ~~See Section 5.5~~

5.8 Supplemental Use Regulations - Additional Requirements for Specific Uses. The following additional requirements shall apply for each of the following specific uses:

a. Adult Use. (See definition in Section 16)

- (1) Purposes. This Ordinance recognizes the adverse secondary impacts of Adult Uses that affect health, safety, and general welfare concerns of the County. These secondary impacts have been documented in research conducted across the nation. These secondary impacts typically include, but are not limited to: increases in crime, increases in risks of sexually transmitted diseases, increases in blight, decreases in stability of neighborhoods, decreases in residential property values, and decreases in the marketability of nearby commercial space. The research conducted across the nation concludes that Adult Uses typically involve insufficient self-regulation to control these secondary effects. Therefore, this Ordinance controls the location of Adult uses, particularly to minimize impacts upon residences, community facilities and prime business areas. This Ordinance is not intended to suppress any activities protected as free speech by the U.S. Constitution, but instead to control the locations to control secondary impacts.
- (2) No adult use shall be permitted to be located within 1,000 feet of any of the following:
 - i. the lot line of an existing residential dwelling, place of worship, school, cemetery, day care center or park, or
 - ii. R-1, R-2, R-3 or MRC district boundary.
- (3) An adult use shall be only be allowed where it is specifically listed as permitted under **Section 5.7.**
- (4) The use shall not operate between the hours of 12 midnight and eight (8) a.m.
- (5) The application for the use shall list the full legal names and addresses of all owners of the use and all shareholders of any company that owns the use, in addition to the full legal name, address and day and evening telephone numbers of an on-site manager responsible to ensure that the use of operations are in compliance with all applicable law.
- (6) A two (2)-acre minimum lot area shall be required.
- (7) A fifty (50) feet foot wide vegetative buffer yard shall be required along the side and rear lot lines. Security fencing shall be placed along the side and rear lot lines.
- (8) No Pornographic material, displays, or signs shall be visible to persons outside of the establishment.
- (9) Zoning approval is conditioned upon compliance with applicable Federal, State, and County law, including any valid prohibitions on sale or display of obscene material.
- (10) For public health reasons, private or semi-private viewing booths are prohibited.
- (11) No use shall be permitted to involve live actual or simulated sex acts or any sexual contact between entertainers or between entertainers and customers.
- (12) Any person conducting a massage within a massage parlor shall remain fully clothed.

b. Bed and Breakfast Inn.

- (1) ~~Where special exception approval is required, the inn shall include a maximum of 5 guest units.~~ Bed and Breakfast inns must not have more than five (5) guest units. **(Reworded)** No such guest unit shall accommodate more than three (3) adults.
- (2) ~~Any parking area for 5 or more vehicles shall be separated from an adjacent dwelling by plant buffering meeting Section 6.12.~~ Landscaping must be in accordance with Section 8.9 'Landscaping Standards.'
- (3) Meals shall only be served to residents and overnight guests, unless the requirements for a Restaurant are also met.

c. Group Domiciliary Care Home. A ~~G~~group domiciliary care home ~~shall be~~ is permitted within a lawful dwelling unit, provided the following additional requirements are met:

- (1) See provisions in **Section 11.2(h)** regarding accommodations for persons with disabilities.
- (2) See definition.
- (3) A ~~G~~group domiciliary care ~~H~~home shall not include any use meeting the definition of a "Treatment Center."
- (4) The facility ~~shall~~ must have adequate staff supervision for the number and type of residents.
- (5) The applicant ~~shall~~ must provide evidence of any applicable Federal, State or County licensing or certification to the Zoning ~~Inspector.~~ Administrator at the time of application.
- (6) The ~~G~~group domiciliary care ~~H~~home ~~shall~~ must register in writing its location, general type of treatment/care, maximum number of residents, and sponsoring agency with the Zoning ~~Officer.~~ Administrator.
- (7) Any medical or counseling services ~~shall~~ must be limited to a maximum of ~~three~~ (3) non-residents per day. Any staff meetings ~~shall~~ must be limited to a maximum of five (5) persons per day.
- (8) A minimum of one (1) off-street parking space ~~shall~~ must be provided per on-site employee, plus one (1) space for every two (2) residents ~~of a type~~ reasonably expected to be able to drive a vehicle. See also **Section 8.**
- (9) If a ~~G~~group domiciliary care ~~H~~home is in a residential district, ~~an~~ its appearance ~~shall~~ must be maintained in a state that is closely similar to nearby dwellings, and no sign ~~shall~~ is permitted to identify the use.
- (10) In compliance with the definition of Family, a ~~G~~group domiciliary care ~~H~~home ~~shall~~ must not house more than five (5) unrelated persons. However, bona fide paid professional staff-persons shall not count towards this maximum number. A greater number of residents may be approved under **Section 11.2(h)**

d. Home Occupation. The use shall be a customary, incidental business that clearly is accessory to a dwelling, such as the office of a resident physician, dentist, architect, engineer, attorney, real estate agent, insurance agent, accountant, or headquarters of a tradesperson, or a beauty or barber shop, or custom handicrafts; and ~~shall~~ must meet the following requirements:

- (1) No product ~~shall~~ is permitted to be sold on-site on a lot of less than four (4) acres, unless it is clearly accessory to a service that is being provided on-site, and except for mail and internet sales.
 - (2) No operations ~~shall~~ are permitted to occur on-site of an industrial ~~character~~ nature. However, custom crafts, crab pots and similar items may be created.
 - (3) No materials connected with the home occupation may be stored outside of an enclosed building, except for crab pots and similar items related to the seafood industry.
 - (4) In addition to members of the “immediate family,” a maximum of ~~only three~~ (3) persons ~~shall~~ is permitted to work on-site as part of the home occupation. However, ~~such the maximum of 3 persons~~ shall be reduced to one (1) person on a lot of less than two (2) acres in the R-1, and two (2) persons on a lot of less than two (2) acres in the R-2 district. Other persons may be employed by the home occupation, provided they do not need to routinely work from the home, but instead drive directly from their home to job sites.
 - (5) No article or commodity ~~shall~~ is permitted to be offered for sale or be publicly displayed on the premises except those incidental to the service offered.
 - (6) The living quarters ~~shall must~~ occupy a minimum of two-thirds (2/3) of the entire building floor area.
 - (7) Only one (1) sign per road frontage may advertise the occupation. ~~Such~~ Ssign(s) ~~shall be~~ are limited to two (2) square feet on each of two (2) sides.
 - (8) The use ~~shall must~~ not be open to the public between nine (9) p.m. and seven (7) a.m.
 - (9) A maximum of two (2) trucks ~~shall~~ is permitted to operate from the lot for business purposes, in addition to any trucks used for agricultural operations. The use ~~shall~~ is not permitted to routinely require deliveries or pickup of items by tractor-trailer trucks.
 - (10) Home Occupations ~~shall be~~ are permitted by right, except special exception approval by the Board of Zoning Appeals ~~shall be~~ is required if any of the following would apply:
 - i. The home occupation would involve ~~ten~~ (10) or more persons routinely visiting the site on a daily basis for business;
 - ii. The home occupation would involve storage or use of hazardous materials beyond the types and amounts routinely found in a dwelling, and/or;
 - iii. The home occupation would involve repair of any motor vehicle(s) on the lot (beyond vehicles owned or leased by residents of the lot or their immediate family). ~~Such~~ Motor vehicle repair ~~shall~~ is not be allowed in the R-1 District.
 - (11) For outdoor lighting, see [Section 8.14](#).
- e. Junkyard and Salvage Yard. Junkyards and salvage yards where permitted, must meet the following standards:
- (a) All storage of junk ~~shall must~~ be setback from every public road right-of-way and lot line a minimum of fifty (50) feet from every public road right-of-way and lot line and ~~shall~~ be completely fenced. The fence ~~shall must~~ be securely built and have a minimum height of eight (8) feet. A visual barrier at least six (6) feet in height ~~shall~~ is required to screen views of the junkyard from public roads and

- adjacent lots. ~~Such~~ Visual barrier(s) may utilize topography, landscaping or opaque fencing, but ~~shall~~ must not utilize junk or sheet metal.
- (b) Junk ~~shall~~ is not permitted to have a height greater than fifteen (15) feet above the ground. Fences ~~shall~~ must be kept neat, ~~by and~~ unobtrusively painted, and in good condition.
 - (c) No used parts, wrecked vehicles or other junk ~~shall~~ is permitted to be kept outside of the fenced area.
 - (d) A store, garage, or other related business may be permitted outside of the fenced area if in accordance with provisions for such uses in the applicable district.
 - (e) Gasoline, lubricants, and batteries ~~shall~~ must be removed from junk vehicles. ~~Such~~ Ssubstances ~~shall~~ must be stored on an impervious surface that prevents contamination of groundwater.
 - (f) The applicant ~~shall~~ must prove that adequate access will be available to emergency vehicles.

f. Mineral Extraction.

Mineral extraction where permitted, must meet the following standards:

- (1) This term ~~shall~~ includes sand and gravel pits, and other pits, mines or quarries, or stripping of soil, including the processing or compounding of products composed largely of such products, and closely similar operations.
- (2) Before authorizing ~~such uses~~ mineral extraction, the Board of Zoning Appeals will condition the approval upon such requirements in regard to the distance the pit, machinery and buildings shall be distant from adjacent properties and roads as shall be reasonable under the circumstances and shall require the restoration of the land to a safe and usable condition by grading, fencing, draining, replanting or other suitable treatment, and the Board of Zoning Appeals may require an adequate bond or other guarantee to insure the performance of any ~~such~~ condition it ~~shall~~ requires.
- (3) Excavation of property for the purpose of establishing a sand and gravel pit ~~shall~~ is not permitted to be commenced until a certified County Grading Permit and Sediment Control Plan has been approved by ~~the County Soil Conservation District as per Ordinance No. 76 of Somerset County, adopting rules and regulations, pursuant to Article 96A, Section 105-110 of the Annotated Code of Maryland.~~ all applicable Local, State, and Federal agencies.

g. Mobile~~4~~, Manufactured, and Other Homes.

- (1) Definition of Mobile/Other Home. A dwelling unit manufactured in a factory on a chassis that is intended to be towed to a site in one (1) or two (2) substantial pieces, and which is not designed to be supported by a conventional perimeter foundation. This definition shall apply regardless of whether a dwelling is still mobile.
- (2) Purposes. These Mobile/Manufactured Home provisions are primarily intended to:
 - i. ~~Recognize~~ that these homes offer affordable housing for County residents~~;~~;

- ii. ~~M~~Make sure that these homes are compatible with nearby site built housing and the character of the zoning district;;
 - iii. ~~R~~ecognize that newer higher quality double-wide units can be constructed in a manner that is closely similar in appearance to site built homes;;
 - iv. ~~R~~equire special approval in certain cases to make sure that the housing is compatible, and e) restrict certain types of these homes to higher density districts or Mobile/Manufactured Home Parks.
- (3) Minimum Construction Standards. New or replacement manufactured or mobile homes intended for human habitation not certified at the time of its construction as meeting the HUD Manufactured Housing Standards are not permitted in any location within Somerset County. **(Similar to Section 6(vi) - next page)**
- (4) Minimum Floor Area. Any newly placed Mobile/Manufactured Home shall include a minimum total dwelling floor area of 720 square feet, not including garages, storage rooms and porches, unless a more restrictive floor area is established by another provision of this Ordinance. Such 720 square feet may be measured based upon the outside dimensions of the dwelling.
- (5) Categories of Mobile, Manufactured and Other Homes. In response to a building permit application, the Zoning ~~Inspector~~ Administrator shall determine the proper category of a Mobile/Manufactured Home proposed for placement in the County. The applicant shall provide sufficient information to the Zoning ~~Inspector~~ Administrator to allow categorization, including a photograph or manufacturer's brochure and specifications for the dwelling and the foundation. (Note: The Zoning ~~Inspector~~ Administrator may waive this requirement where a dwelling is required to be elevated to comply with floodplain regulations, provided that the home will be compatible in appearance with other homes in the area.)
- (6) Zoning Districts. Single wide manufactured homes or other homes meeting HUD code, or the local building code, but not meeting the minimum development and siting requirements for single family dwelling in zoning districts may be located as follows:
- i. If applicable, within a lawful approved mobile/manufactured home park, without needing special exception approval for each home. Note that special exception approval may be needed for the mobile home park.
 - ii. By Special Exception of the Board of Zoning Appeals in High Density Residential ~~Three~~ (R-3), and Maritime Residential Commercial (MRC).
 - iii. By Special Exception in Agricultural ~~Residential~~ Rural (AR) on parcels of at least ~~twenty~~ (25) acres provided they are set back ~~one-hundred~~ (100) feet from any exterior road.
 - iv. Mobile/Manufactured Homes that do not meet the requirements shall not be permitted to be placed within Somerset County, except as allowed under subsection (e) below.
 - v. A mobile/manufactured home shall not be used for storage except:
 - (a) ~~F~~for use as temporary construction trailers for on-site construction; or

- (b) After receiving special exception approval, as non-residential storage as accessory to a principal agricultural operation, provided such the structures are not visible from a public road or are setback a minimum of three (300) feet from all exterior property lines.
- vi. Any mobile/manufactured home that was not certified at the time of its construction as meeting the Federal Manufactured Housing Standards (which were effective in 1976) shall not be newly placed for residential purposes in any location within the County.

(7) Dimensional and Siting Requirements.

- i. A Mobile/Manufactured Home shall meet all of the same lot area, setback, and other requirements as a single family detached dwelling, except within a lawful Mobile/Manufactured Home Park, or as specifically stated otherwise. Therefore, a subdivision intended for placement of individual mobile homes on fee-simple lots shall meet all of the same requirements as a subdivision of site-built homes. However, the placement of each mobile home shall also meet the requirements of this Section.
 - ii. Any Mobile/Manufactured Home shall be securely anchored to the ground in a manner resistant to high winds. See the provisions of the County Building Code.
 - iii. A site plan shall be submitted that shows the proposed locations of buildings, any septic system and any septic reserve area. If special exception approval is needed, such the plan shall be submitted prior to the hearing.
 - iv. The hitch of a Mobile/Manufactured Home shall be removed. The wheels and axles shall be removed, or made not visible. Any aboveground fuel supply system shall not be visible from a public street.
 - v. The dwelling shall meet local building codes or if a mobile or manufactured home, shall have a complete enclosure around the base of the home that is approved by the DTCS Zoning Administrator or as required by the Board of Zoning Appeals. Such The enclosure shall involve brick, masonry stucco on a durable material, vinyl skirting or similar material that resembles a foundation of a site-built home or that is consistent with the exterior materials of the dwelling. Any skirting shall be compatible in color of the home. The enclosure shall include appropriate provisions for access to the underside of the home for maintenance and repair. Any above ground fuel supply system shall not be visible from the street.
 - vi. If the dwelling will be more than three (3) years old at the time of placement, the applicant shall submit a certification of the electrical system by a licensed electrician.
- (8) Existing Mobile/Other Manufactured Homes. Mobile/Manufactured Homes that lawfully exist on a lot may continue to be used for dwelling purposes. However, any Mobile/Manufactured Home that ceases to be used for dwelling purposes for twelve (12) or more months shall be removed from the lot.

h. Mobile/Manufactured Home Park.

- (1) Access. The development shall have vehicle access onto an arterial or collector road. The number of vehicle access points onto existing public roads shall be held to a minimum. No individual dwelling units shall have their own driveways entering onto an existing public road. Any new road serving twenty-five (25) or more dwelling units shall have a minimum paved cart-way of twenty-four (24) feet.
- (2) The development shall meet the County's Stormwater Ordinance.
- (3) The development tract shall have a minimum width and depth of two-hundred (200) feet and a minimum lot area of five (5) acres.
- (4) The walls of each dwelling unit shall be a minimum of twenty (20) feet from the walls of any other dwelling unit, not including porches, canopies and similar structures.
- (5) A minimum of fifteen (15%) percent of the development lot area shall be reserved and provided for recreation use by the residents of the development.
- (6) The development shall be surrounded by a twenty-five (25) feet wide perimeter landscaped area that shall be kept free of buildings and parking spaces.
- (7) Mobile/manufactured homes and principal buildings shall be setback a minimum of fifty (50) feet from all perimeter lot lines.
- (8) Parking - See [Section 8.](#)
- (9) The development shall meet all of the improvement requirements (including but not limited to water supply and sewage treatment) of the County Subdivision Ordinance that would apply to a subdivision, even if the mobile/manufactured home is not a subdivision. However, each mobile home space is not required to be individually surveyed and monumented if the spaces will not be individually sold.
- (10) The owner of the development shall provide for proper solid waste collection and disposal.
- (11) Non-residential buildings shall be limited to those necessary to serve residents of the development, such as utility buildings and non-commercial recreation buildings for residents and their invited guests.
- (12) Nonconforming Mobile Home Parks - See [Section 4.3](#), which limits expansion of the number of dwelling units.
- (13) The maximum density shall be five (5) dwelling units per acre.

i. Treatment Centers may be permitted by the Board of Zoning Appeals in the C-2, O-C, and I-2 Districts provided:

1. See definition.

- (1) The applicant ~~shall~~ must provide a written description of all types of persons intended to occupy the use during the life of the permit. Any future additions to this list ~~shall~~ require an additional special exception approval.
- (2) The applicant ~~shall~~ must prove to the satisfaction of the ~~Zoning~~ Board of ~~Zoning~~ Appeals that the use will involve adequate on-site supervision and security measures to protect public safety.
- (3) The ~~Zoning~~ Board of ~~Zoning~~ Appeals may place conditions upon the use to protect public safety, such as conditions on the types of residents and security measures.

j. Small Wind Energy System (s). As an accessory use.

(1) Definitions:

- i. Off Grid System: A Small Wind Energy System that is not connected to the main power grid with the capability of transporting energy back to a commercial power provider.
- ii. Small Wind Energy System: A single towered wind energy conversion system that is used to generate electricity and which has a total height of one-hundred sixty (160) feet or less. The equipment includes, but is not limited to any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire or other component used in the system.
- iii. Wind Energy System Owner: The individual or ownership entity that owns, or intends to own, the real property upon which a Small Wind Energy System will be operated in accordance with this Section.
- iv. Wind Generator: The blades and associated mechanical and electrical conversion components.
- v. Wind Tower: The monopole, freestanding or guyed structure that supports a wind generator.

(2) Setbacks. A wind tower for a Small Wind Energy System shall be at least a distance equal to its total height plus an additional twenty (20) feet from:

- i. Any public or private road right-of-way;
- ii. Any overhead utility lines;
- iii. All property lines; and
- iv. Any existing guy wire or anchor on the property.

(3) Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. Any tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

(4) Electrical wires. All electrical wires associated with a Small Wind Energy System, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

(5) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of a Small Wind Energy System, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from adjoining properties.

(6) Appearance. The wind generator and wind tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.

- (7) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs or owner identification on a wind generator, wind tower, building or other structure associated with a Small Wind Energy System visible from any public road shall be prohibited.
- (8) Noise. A Small Wind Energy System shall not exceed sixty (60) decibels (dba), as measured at the closest habitable dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- (9) Approval and Certification. A Small Wind Energy System must be approved under a small wind certification program recognized by the American Wind Energy Association before issuance of a Building Permit.
- (10) Application. A Zoning Application for a Building Permit to erect a Small Wind Energy System shall be accompanied by a site plan and engineered drawings of the wind turbine structure, including the tower, base and footings. An engineering analysis of the tower showing compliance with the International Building Codes (IBC) and certified as structurally safe by a licensed professional engineer shall also be submitted. An application must be accompanied by a "line drawing" of the electrical components in sufficient detail to allow for a determination that the manner of installing conforms to the National Electrical Code. A Small Wind Energy System shall comply with all applicable codes including all applicable regulations of the Federal Aviation Administration (FAA).
- (11) Notifications. No Small Wind Energy System shall be installed until evidence has been provided to the Department of Technical and Community Services (DTCS) that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement. In accordance with Section 7-207.1 of the Public Utility Companies Article of the Annotated Code of Maryland, any property owner seeking to construct a Small Wind Energy System and connect ~~such~~ the system to the main power grid with the capability of transporting energy back to their main power provider shall apply to the Public Service Commission (PSC) for approval and provide written evidence of ~~such~~ approval to DTCS prior to construction and the issuance of a Zoning Certificate and Building Permit.
- (12) Abandonment and Removal. A Small Wind Energy System that is out of service for a continuous six (6) - month period will be deemed to have been abandoned. The Zoning ~~Inspector~~ Administrator may issue a Notice of Abandonment and Removal to the Owner of a Small Wind Energy System that is deemed to have been abandoned. The Owner, within thirty (30) days of the issuance of the above Notice, may dispute the Notice of Abandonment and Removal in writing setting forth the reasons for any operational difficulty and providing a reasonable time for corrective action. The Zoning ~~Inspector~~ Administrator shall withdraw the Notice of Abandonment and Removal and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates to the satisfaction of the Zoning ~~Inspector~~ Administrator that the Small Wind Energy System has not been abandoned. A Small

Wind Energy System that has been abandoned shall be removed within sixty (60) days of the issuance of the Notice of Abandonment and Removal. If the Owner fails to remove the Small Wind Energy System from the site, DTCS may remove the same and assess the costs to the landowner on the real property taxes for that parcel.

(13) Miscellaneous:

- i. A Small Wind Energy System including its guy wires may not be attached to any building.
- ii. Meteorological Towers used to gather wind data for site selection and evaluation may be permitted under the same standards, distances conditions, restrictions, permitting requirements and procedures as a Small Wind Energy System.

(14) Violations. It is unlawful for any person, property owner or their assigns to construct, install or operate a Small Wind Energy System or to direct another to do so that is not in compliance with this section or with any condition or restriction contained in a Building Permit or Zoning Certificate issued pursuant to this Ordinance.

k. Medium Solar Energy Facility. **(NEW Section. Please note that 'large' (aka – utility scale solar) is addressed in another section. This section only allows for solar as an accessory to a non-residential use and stand-alone (principal use) facilities up to two (2) Megawatts (typically, one (1) Megawatt's worth of solar panels equates to six (6) acres)).**

- (1) Purpose. Medium solar energy facilities are allowed, as an accessory use to a commercial or industrial use, provided that the facility will not generate more than two (2) megawatts (MW) of electricity and is not connected to the grid.
- (2) Applicability. Medium solar energy facilities will only be considered on parcels designated as 'Agricultural Rural' (AR), 'Mixed Use Village' (C-1), 'General Commercial' (C-2), 'Light Industrial' (I-1), and 'General Industrial' (I-2) with a special exception.
- (3) Considerations.
 - i. Medium solar energy facilities may be a part of or attached to a principal or accessory structure located on an agricultural, commercial, institutional, industrial site and is subject to the applicable setback and height limitations for the zoning district.
- (4) Bulk Regulations.
 - i. Medium solar energy facilities must be setback seventy-five (75) feet from adjacent property lines.
 - ii. All components of a medium solar energy facility including underground wiring must be setback at least one-hundred (100) feet from a cemetery or graveyard.
- (5) Visual Standards. Detached solar energy systems must be visually shielded from any public right of way or adjacent property which is in the R-1, R-2, R-3, and MRC Districts or any district where the adjacent property is used for residential purposes. The visual buffer shall consist of evergreen shrubbery, trees, or other ornamental or natural vegetation sufficient to provide an immediate visual barrier to the equipment. In lieu of a vegetative shield, a decorative fence may be used, but must be maintained.

- (6) All solar panels must be situated in such a manner as to prevent concentrated solar radiation or glare from being directed onto adjacent properties, roads, or public gathering places.
- (7) All power transmission lines for freestanding ground-mounted solar energy systems or pipes from solar energy heading equipment connecting freestanding systems to a building shall be located underground.
- (8) Signage or text on medium solar energy facilities may be used to identify the manufacturer, equipment information, warning or ownership but must not be used to display any commercial advertising message or anchor any streamers, balloons, flags, banners, ribbons, tinsel, or other materials to attract attention.
- (9) The Board of Zoning Appeals may place additional conditions such as, but not limited to:
 - i. Requirements for decommissioning including but not limited to the removal of the solar energy facility and all equipment, electrical components, support structures, and cabling.
 - ii. Maintenance, construction, or drainage plan(s).
- (10) A site plan in accordance with sections 8.15 and 7.5(d)(2) is required.

l. Commercial Raising of Poultry.

- (1) These standards shall apply to any structure, including all related buildings and appurtenances, designed and used for the growing of poultry. This includes, but is not limited to, fans, feed bins, litter storage, manure sheds, incinerators, composters and cold storage. The development standards shall differentiate between a new poultry operation being constructed on a parcel of land and an expansion of additional structures to an existing poultry operation.
- (2) The following standards shall apply to all new poultry structures constructed as part of a new poultry operation.
 - i. Location – see Section 5.2.(a)(5).
 - ii. Lot size – ten (10) acre minimum.
 - iii. Density.
 - (a) Maximum Building Coverage – see Section 5.6(a).
 - (b) A Special Exception from the Board of Zoning Appeals shall be required if the floor area of all proposed poultry houses exceeds 225,000 square feet.
 - iv. Buffer. (*Planning Commission – as a reminder, a clarification of the landscape buffer was discussed at its June 7, 2018 meeting. Please review and discuss as appropriate.)
 - (a) A thirty (30) foot wide landscaped vegetative buffer ~~shall be~~ is required around the active portions of the poultry operation, to include where poultry is loaded/unloaded, and where the feed bins, tunnel ventilation fans and manure sheds are located. The vegetative buffer must be placed so as to provide an adequate buffer with the aggregate average mature plant spread measuring thirty (30) feet in width, or as otherwise determined by the Zoning Administrator.

- (b) A landscaping plan shall be submitted to the Zoning Administrator for review and approval that follows either the Delmarva Poultry Industry's "A Guide to Vegetative Environmental Buffers for Tunnel Ventilated Poultry Houses" or standards of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture (USDA).
- (c) A vegetative buffer may not be required if sufficient vegetation is in place or on adjacent to the site as determined by the Zoning Administrator.
- v. Setbacks.
 - (a) Front – 200 feet, measured from the center line of the road.
 - (b) Rear – 100 feet.
 - (c) Side – 100 feet.
 - (d) From a school, place of worship, day care center, or nonparticipating residence on another lot – 400 feet.
 - (e) Tunnel Ventilation Fans – 500 feet from a school, place of worship, day care center, or nonparticipating residence on another lot.
- (3) The following standards shall apply to the construction of additional poultry structures to an existing poultry operation.
 - i. Density.

~~(1) Maximum Building Coverage—see Section 5.6(a).~~ **(This provision is recommended for deletion as it conflicts with the removal of 'maximum building coverage. See Section 6.2(a).**

 - (a) A Special Exception from the Board of Zoning Appeals shall be required if the new proposed poultry house construction causes the total floor area of all poultry houses on the property to exceed 225,000 square feet.
 - ii. Buffer. **(*Planning Commission – as a reminder, a clarification of the landscape buffer was discussed at its June 7, 2018 meeting. Please review and discuss as appropriate.)**
 - (a) A thirty (30) foot wide landscaped vegetative buffer ~~shall be~~ is required around the active portions of the new poultry house(s) to be constructed, to include where poultry is loaded/unloaded, and where the feed bins, tunnel ventilation fans and manure sheds are located. The vegetative buffer must be placed so as to provide an adequate buffer with the aggregate average mature plant spread measuring thirty (30) feet in width, or as otherwise determined by the Zoning Administrator.
 - (b) A landscaping plan shall be submitted to the Zoning Administrator for review and approval that follows either the Delmarva Poultry Industry's "A Guide to Vegetative Environmental Buffers for Tunnel Ventilated Poultry Houses" or standards of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture (USDA).
 - (c) A vegetative buffer may not be required if sufficient vegetation is in place or on adjacent to the site as determined by the Zoning Administrator.
 - iii. Setbacks.
 - (a) Setbacks for the new poultry house(s) to be constructed shall comply with the setbacks in effect at the time of construction of the existing poultry houses.

- (b) The front setback for new poultry houses to be constructed on a parcel containing an existing poultry ~~farm~~ operation may be the same as for the existing poultry houses.
- (c) For replacement poultry houses on an existing poultry ~~farm~~ operation that have not be inactive for more than three (3) years, existing setbacks for replacement will be applied to a new poultry house to allow consistency on the property and to avoid economic hardship for growers wishing to expand their operations. See also Section 4.4(d) of this code.

5.9 Optional Transfer of Development Rights. (Moved to Section 8.16)

5.9 Additional Requirements in the “AP” Airport District. (Previously Section 5.3) The following uses are expressly prohibited in the AP District:

- a. Manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
- b. Rifle ranges and private landing fields which would interfere with the health, safety and general welfare of the public in the use of the airport.
- c. All uses or structures which would emit or discharge smoke, gasses and odors that would or may interfere with the health, safety and general welfare of the public in the use of the airport.
- d. Any uses which would create electrical, magnetic or other interference with radio communication between the airport and aircraft, making it difficult for flyers to distinguish between airport lights and others, resulting in glare in the eyes of the flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endangering the landing, take off or maneuvering of aircraft.
 - (1) Notwithstanding any other provisions of this ordinance, no building, structure, tree or any object of natural growth shall be erected, altered, allowed to grow, or be maintained to a height in excess of the height of the approach, horizontal or transitional surfaces above such districts.
 - i. See definitions of ~~such~~ terms in Section 16.

5.10 Accessory Dwelling Units. (NEW Section – The Planning Commission saw this previously on September 6, 2018)

An accessory dwelling unit where permitted, provided that there shall be no more than one (1) accessory dwelling unit per lot and provided such accessory dwelling unit complies with the following standards.

- a. Location. An accessory dwelling unit may be located on the same lot as an owner-occupied detached single family dwelling unit. An accessory dwelling unit may not be located on the same lot as a ‘single-wide’ mobile or manufactured home.
- b. Purpose. Standards for creating accessory dwelling units address the following purposes:
 - (1) Ensure that accessory dwelling units are compatible with the desired character and livability of residential districts;

- (2) Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards; and
- (3) Ensure that accessory dwelling units are smaller in size than the principal residential unit.

c. Design Standards.

- (1) Generally, the design standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zoning district development standards apply.
- (2) Creation. An accessory dwelling unit may only be created through the following methods:
 - i. Converting existing living area, attic, or basement;
 - ii. Adding floor area to an existing dwelling;
 - iii. Construction of a stand-alone unit; or
 - iv. Adding onto an existing accessory building (e.g., apartment in an existing garage).
- (3) Location of Entrances. Only one (1) entrance may be located on the front facade of the principal dwelling facing the street, unless the principal dwelling contained additional front facade entrances before the accessory dwelling unit was created.
- (4) Parking.
 - i. No additional parking space is required for the accessory dwelling unit if it is created on a site with an existing house and on-street parking is adequate.
 - a. One (1) additional parking space located on or within one-hundred (100) feet of the lot is required for the accessory dwelling unit:
 - 1. When none of the roadways in abutting streets can accommodate on-street parking (or);
 - 2. When the accessory dwelling unit is created at the same time as the principal dwelling.
- (5) Maximum Size. The size of an accessory dwelling unit may be no more than fifty (50%) percent of the living area of the principal dwelling or eight-hundred (800) square feet of floor area, whichever is less.
 - (a) Accessory dwelling units created through the addition of floor area must meet the following standards:
 - (1) The exterior finish material must be the same or visually match in type, size, and placement of the exterior finish materials of the principal dwelling.
 - (2) The roof pitch must be the same as the predominant roof pitch of the principal dwelling. The Board of Zoning Appeals may permit a different roof pitch if needed due to the shape of the roof on the existing principal dwelling if it determines that the proposed roof pitch will maintain a compatible appearance.

- (3) Trim on the edges of elements on the addition must visually match the type, size, and location as the trim used on the rest of the principal dwelling.
- (4) Windows must match those in the principal dwelling in proportion and orientation.
- (5) Eaves must project from the building walls the same distance as the eaves on the rest of the principal dwelling.
- d. Refer to the Critical Area Ordinance for properties located within the Critical Area.

5.11 Portable Storage Containers, Roll-Off Trash Containers. (NEW Section)

- a. A property owner or tenant may rent and use a portable storage container or roll-off trash container provided the following conditions are met:
 - (1) The Zoning Administrator must be notified at least three (3) business days prior to placing the container on the site.
 - (2) A portable storage or roll-off trash container is permitted to be located at the address for a maximum of sixty (60) consecutive days, including the days of delivery and removal. Extensions may be granted by the Zoning Administrator, subject to conditions, for reasonable additional time periods in an amount not to exceed thirty (30) days for each extension. The Planning Commission may grant further extensions not to exceed six (6) months.
 - (3) The unit is no larger than eight (8) feet wide by eight (8) feet high by sixteen (16) feet long.
 - (4) There is no more than one (1) container for any address at any given time.
 - (5) The unit is not located within any public right-of-way and does not block any public sidewalk unless approved by the Zoning Administrator.
 - (6) The container is not permitted to be located in the front setback unless approved by the Zoning Administrator. If access exists at the side or rear of the site, the container shall be located in a side or rear yard.
 - (7) Containers shall be placed on an impervious surface where feasible (e.g., driveway).
 - (8) Containers are not permitted accessory structures and shall not be used as such.
 - (9) Portable storage containers and roll-off trash containers in conjunction with an agricultural, aquacultural, or fisheries operation as determined by the Zoning Administrator are exempt from Sections (a)(2) and (b)(1), however all other provisions of this section must be adhered to.
- b. Additional regulations for portable storage containers are as follows:
 - (1) The portable storage container may only be used for the temporary storage of household goods and related items and must not be used for waste.
- c. Additional regulations for roll-off trash containers are as follows:
 - (1) The roll-off trash container's maximum capacity must not be greater than forty (40) cubic yards.
 - (2) The roll-off trash container may only be used for disposal of acceptable waste. Examples of waste that are not acceptable include refrigerators, a/c units, tires, batteries, car parts, hazardous waste, and gas or propane tanks.

5.12 Farm Breweries, Distilleries, and Wineries. (NEW Section - The Planning Commission saw this previously on September 6, 2018)

- a. Statement of Intent. This ordinance is intended to allow for the development of farm breweries, distilleries, and commercial wineries in order to provide an avenue for alcohol agritourism in the County.
- b. Standards.
 - (1) Farm breweries, distilleries, or wineries will only be considered for properties zoned Agricultural Rural ('AR') or Conservation District ('CO') by special exception from the Board of Zoning Appeals.
 - (2) Future changes to the site layout, footprint, ~~or~~ alcohol product type, or any other substantive change requires a special exception amendment or as otherwise conditioned by the Board of Zoning Appeals.
 - (3) Some of the ingredients used for the production of beer, cider, spirits, or mead must be produced on-site.
 - (4) All parking must be accommodated on-site. A farm brewery, distillery, or winery is considered an agricultural use and cannot be used to justify a future land use plan amendment or rezoning decision.
 - (5) Adherence to the requirements of applicable Federal, State, and Local regulations, permits, and licenses shall be a condition for approval and continued operation of the proposed use. Applicants are encouraged to pursue licenses with the State of Maryland, or the Federal Government (if applicable) prior to submission of an application package.
 - (6) See the Critical Area Ordinance for farm breweries, distilleries, or wineries in the Critical Area.
- c. Additional Considerations.
 - (1) A pre-application meeting with DTCS staff is required prior to submission.
 - (2) The Board of Zoning Appeals or Planning Commission may place appropriate conditions and safeguards in conformity with this Ordinance.
- d. Bulk Regulations.
 - (1) Permanent structures must be setback a minimum of forty (40) feet from adjacent property lines. Setback requirements may be waived for an adjacent parcel which is owned by the same person or entity.
 - (2) Permanent structures must be setback a minimum of two-hundred (200) feet from residences, schools, and churches on an adjacent property(s).
- e. Submission Requirements.
 - (1) Site Plans must be submitted in accordance with **Section 8.15**
 - (2) Additional site plan information required must include, but is not limited to the following:
 - i. Name of the brewery, distillery, or winery and its owner(s);
 - ii. Landscaping plan;
 - iii. Lighting plans;
 - iv. Any other items requested by the Zoning Administrator.
 - (3) Narrative Required. An accompanying narrative must be submitted in conjunction with the site plan and any other documents requested by the Zoning Administrator. The narrative must include, but is not limited to the following information:
 - i. The name of the brewery, distillery, or winery, and ownership information;

- ii. An on-site point of contact;
- iii. The type and amount of alcohol to be produced and the ingredients that will be grown on-site including the type(s) and estimated quantity of ingredients produced on-site and/or on other land holdings that will be used in production;
- iv. The number and size of barrels, pots, or casks anticipated to be used;
- v. Other agricultural operations on the site, if any;
- vi. The number and types of structures that will be on the premises, including permanent and temporary structures such as tasting rooms, beverage and/or food production areas including food trucks, greenhouses, parking, tents, port-o-johns, open spaces, and the maximum capacity of buildings intended for use by visitors;
- vii. The number and type of events or auxiliary activities anticipated to be held on the premises and the number of visitors expected;
- viii. Any signage proposed for the site;
- ix. Plans for future expansion of the business, if any;
- x. Plans for bottling, canning, kegging, or growlers, if applicable;
- xi. A listing of the chemicals that will be stored on-site for cleaning and sanitation purposes;
- xii. Anticipated water and sewerage usage, and a plan for each;
- xiii. Traffic impacts expected on and off-site.

SECTION 6 **BULK REGULATIONS**

(*Section 6 was previously entitled ‘General Regulations.’ A new section six (6) has been created for bulk regulations which were previously located in section 5 – ‘Zoning Districts.’ ‘General Regulations’ may be found later in the document. Several provisions from other areas of the code have been moved here. A notation will be found at those sections).

6.1 Lot Requirements. (This Section has been created with provisions primarily taken from the ‘Table of Height, Area, and Dimensions’ notations on the following pages) and NEW provisions as recommended by the consultant.

- a. **Required yard setbacks.** Unless otherwise indicated, all lots shall have front, side, and rear yards as set forth in **Section 6.2 or 8.16**. Attached units must have front, side, and rear yards as set forth in **Section 6.9**. No principal building or structure or part thereof and, when specified, no principal use of land is permitted to occupy any required yard or other setback except as a variance granted by the Board of Zoning Appeals or as provided in **Section 11.3. (NEW Provision)**
- b. **Required yards not to be reduced.**
 - (1) No lot is permitted to be reduced in area to make any yard or any other open space less than the minimum required by this section, and if already less than the minimum required, the yard or open space must not be further reduced except by the approval of the Board of Zoning Appeals in accordance with the provisions in **Section 11.3**, or as provided for in an approved planned unit development or projects approved by the Planning Commission in the Overlay – Commercial (O-C) District.
 - (2) No part of a yard or other open space provided about any building, structure or use for the purposes of complying with the provisions of this section will be considered as part of a yard or other open space required under this chapter for another building, structure or use, except as provided for in an approved planned unit development or projects approved by the Planning Commission in the Overlay – Commercial (O-C) District. **(NEW Provision)**
- c. **(*Moved from Table of Height, Area and Dimensions Notations)** If a new lot is submitted for subdivision approval after the effective date of this Ordinance, and the lot will have its own new individual driveway entering onto an existing arterial street, then a minimum width of two-hundred (200) feet shall apply, measured along the right-of-way of the arterial street. This increased lot width shall not apply if a lot is adjacent to an arterial street, but shares traffic access with another lot, or receives its access from an interior street or service road.
- d. **(*Moved from Table of Height, Area and Dimensions Notations)** If a new residential lot is submitted for subdivision approval after the effective date of this Ordinance, and the lot will be contiguous to an existing poultry or livestock principal use, any future home built on the lot shall be setback a minimum of two-hundred (200) feet from a poultry structure in the AR District and a minimum of one-hundred (100) feet from a poultry structure in all other districts, unless a written waiver of a larger setback is provided by the owner of the poultry or livestock use.

- ~~* An additional 10 feet of yard depth shall be required when a new or expanded principal commercial or industrial use will be adjacent to an R-1, R-2 or R-3 district or an existing primarily residential lot.~~
- e. An additional ten (10) feet of side yard depth shall be required when a new or expanded principal commercial or industrial use in the C-1, C-2, O-C, I-1 or I-2 districts will be adjacent to an R-1, R-2, or R-3 district or an existing primarily residential lot. **(Reworded)**
- ~~¹ Lot areas stated above are for uses served with approved central sewage service and approved central water service. Otherwise, lot areas must conform to the minimum standards of the County Health Department, and the County Water and Sewerage Plan.~~
- f. Minimum lot areas set forth in Sections 6.2 and 6.9, are for uses served with approved central sewage service and approved central water service. Otherwise, lot areas must conform to the minimum standards of the County Health Department and the County Water and Sewerage Plan. **(Reworded)**
- g. **(*Moved from Table of Height, Area and Dimensions Notations)** For any new lot granted subdivision approval after the adoption of this Ordinance that would be located within the AR district, the following notation (or alternative wording approved by the Zoning Inspector Administrator) shall must be placed on the final plat and shall be recorded with the deed for each lot: *"This subdivision is within a zoning district that emphasizes the preservation of agricultural and forestry activities, including livestock operations. All lot owners are placed on notice that the County intends to preserve, encourage and protect farm and forest resources and their productivity to ensure that agriculture and forestry enterprises will continue to have the necessary flexibility to adjust as economic conditions change. Therefore, it is the specific intent of the County to give priority to agriculture and forestry activities in these areas. Furthermore, it is the intent of the County that there shall be no basis, under the Zoning Ordinance, for recourse against the effects of normal farming and forestry operations as permitted including, but not limited to noise, odor, vibration, fumes, dust, hours of operation, or glare."*

6.2 Dimensional Requirements in each District, Table of Height, Area, and Dimensional Standards, other than Attached Housing. (Previously section 5.6)

- a. The following Height, Area, and Bulk Requirements shall apply for each of the following Zoning Districts ~~shall be~~ as indicated in the following table, unless a more restrictive provision is established by another provision of this Ordinance.

ZONING DISTRICT	MINIMUM LOT ¹			MINIMUM YARD ^{2,3 *****}			MAXIMUM HEIGHT ⁴ (feet)	MAXIMUM BUILDING COVERAGE (percent)
	LOT AREA ¹ (square feet)	LOT WIDTH (feet)	LOT DEPTH (feet)	FRONT YARD ³ (feet)	EACH SIDE YARD ² (feet)	REAR YARD ² (feet) ⁷		
Agricultural Residential Rural AR *** See also cluster option in Section 6.8.	43,560 (1 Acre)	100' *****	100'	40'	10'	30'	35'	25%
Conservation CO See also Critical Area regulations in Section 6.13.	217,800 (5 Acres)	200'	200'	40'	20'	35'	35'	15%
Low Density Residential R-1 See also cluster option in Section 6.8, which allows reduced lot sizes.	20,000	85' *****	100'	30'	10'	35'	35'	40%
Medium Density Residential R-2 See also cluster option in Section 6.8, which allows reduced lot sizes.	10,000 ⁵	80' *****	100'	30'	8'	25'	35'	40%
High Density Residential R-3 See also cluster option in Section 6.8, which allows reduced lot sizes. For Mobile/Manufactured Home Parks, Section 5.8 shall apply instead of these provisions.	8,000 ⁵	80' *****	100'	25'	8'	25'	35'	40%

ZONING DISTRICT	MINIMUM LOT ¹			MINIMUM YARD ^{2, 3 *****}			MAXIMUM HEIGHT ⁴ (feet)	MAXIMUM BUILDING COVERAGE (percent)
	LOT AREA ¹ (square feet)	LOT WIDTH (feet)	LOT DEPTH (feet)	FRONT YARD ³ (feet)	EACH SIDE YARD ² (feet)	REAR YARD ² (feet) ⁷		
Maritime Residential Commercial MRC See also cluster option in Section 6.8, which allows reduced lot sizes.	8,000 ⁵	80' ^{5*****}	100'	20'	8'	25'	35'	50% **
Mixed Use Village C-1	3,000	15'	-	20'	5' [*]	25'	40'	80% **
General Commercial C-2, or Business and Technology Corridor BT	10,000	60' ^{*****}	-	40'	15' [*]	25' ^{**}	45'	80% **
Light Industrial I-1, or General Industrial I-2, or Airport AP	20,000	80' ^{*****}	-	40'	15' [*]	35' [*]	45' ⁶	80% **
Overlay Commercial O-C See also Section 5.5, including minimum tract size.	10,000	60' ^{*****}	-	40'	15' [*]	25' [*]	45'	80% **

(THE FOLLOWING NOTATIONS HAVE BEEN MOVED TO THEIR OWN INDIVIDUAL SECTIONS AND ARE PROPOSED TO NO LONGER BE ATTACHED TO THE 'TABLE OF HEIGHT, AREA, AND DIMENSIONAL STANDARDS. *Also, notations that direct the reader to another section have been removed).

See also the various overlay districts, including but not limited to the Critical Area Overlay in Section 6.13.

For attached housing, See Section 5.7.

See definitions of terms in Section 16.

See buffering and screening in Section 6.19.

* An additional 10 feet of yard depth shall be required when a new or expanded principal commercial or industrial use will be adjacent to an R-1, R-2 or R-3 district or an existing primarily residential lot.

~~** On a lot occupied by a principal non-residential use(s), a minimum of 10 percent of the lot area shall be forested or landscaped, unless a stricter requirement is established by another provision. See also the County Forest Conservation Ordinance.~~

~~*** Notation. For any new lot granted subdivision approval after the adoption of this Ordinance that would be located within the AR district, the following notation (or alternative wording approved by the Zoning Inspector) shall be placed on the final plat and shall be recorded with the deed for each lot:~~

~~*“This subdivision is within a zoning district that emphasizes the preservation of agricultural and forestry activities, including livestock operations. All lot owners are placed on notice that the County intends to preserve, encourage and protect farm and forest resources and their productivity to ensure that agriculture and forestry enterprises will continue to have the necessary flexibility to adjust as economic conditions change. Therefore, it is the specific intent of the County to give priority to agriculture and forestry activities in these areas. Furthermore, it is the intent of the County that there shall be no basis, under the Zoning Ordinance, for recourse against the effects of normal farming and forestry operations as permitted including, but not limited to noise, odor, vibration, fumes, dust, hours of operation or glare.”*~~

~~**** If a new lot is submitted for subdivision approval after the effective date of this Ordinance, and the lot will have its own new individual driveway entering onto an existing arterial street, then a minimum width of 200 feet shall apply, measured along the right-of-way of such arterial street. This increased lot width shall not apply if a lot is adjacent to an arterial street, but shares traffic access with another lot, or receives its access from an interior street or service road.~~

~~***** If a new residential lot is submitted for subdivision approval after the effective date of this Ordinance, and the lot will be contiguous to an existing poultry or livestock principal use, any future home built on the lot shall be setback a minimum of 200 feet from a poultry structure in the AR District and a minimum of 100 feet from a poultry structure in all other districts, unless a written waiver of such larger setback is provided by the owner of the poultry or livestock use.~~

¹—~~Lot areas stated above are for uses served with approved central sewage service and approved central water service. Otherwise, lot areas must conform to the minimum standards of the County Health Department, and the County Water and Sewerage Plan.~~

²—~~For corner lots, see Section 6.6.~~

³—~~Where a yard would be adjacent to a public road that has a right-of-way width of less than 50 feet, the yard shall be measured from a line 25 feet parallel to the street centerline. An unenclosed front porch may extend up to 10 feet into the required front yard.~~

⁴—~~All buildings are restricted to 3 above-ground stories, except structures may exceed maximum height limits as provided under Section 6.5 or 5.7.~~

⁵—~~See Section 5.7 for standards for attached housing.~~

⁶—~~Within the AP district, no structure or tree shall be erected, expanded, allowed to grow or be maintained to a height in excess of the approach, horizontal or transitional surfaces above such zones.~~ **(Covered under Airport Overlay Zoning District)**

⁷—~~A rear yard that abuts a public street shall have a minimum rear building setback measured parallel to the rear street right of way of 40 feet, except such setback shall be 30 feet in the R-2, R-3 and MRC districts.~~ **(Proposed for Removal)**

~~***** Grandfathering provisions for the replacement of existing poultry houses can be found in Section 4.4d of this Ordinance.~~

6.3 Height Regulations. ~~Structures Permitted Above Height Limit.~~ (Previously section 6.5 and from 'Table of Height, Area and Dimensional Standards Notations')

~~⁴ All buildings are restricted to 3 above-ground stories, except structures may exceed maximum height limits as provided under Section 6.5 or 5.7.~~

- a. All buildings are restricted to **three (3)** above-ground stories, except structures may exceed maximum height limits as provided under **Section 6.3 or 6.9.**
- b. **Structures Permitted Above Height Limit.** The building height limitations of the Ordinance shall not apply to penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the buildings; fire or parapet walls, towers, steeples, flag poles, silos, smoke stacks, masts, tanks, permitted antenna, monuments, or other structures that project into the air.
- c. The Zoning Administrator may increase the maximum height limit for principal and accessory structures where the additional height is necessitated by compliance with Somerset County's Floodplain regulations. **(NEW PROVISION)**
- d. **Maximum Height Limits in the General Commercial (C-2), Light Industrial (I-1), and General Industrial (I-2) Districts.**
 - (1) Except as provided in **Section 6.3(c)**, no building shall exceed forty-five (45) feet in height. **(NEW PROVISION)**
 - (2) The Board of Zoning Appeals may grant a variance permitting a greater height. In granting a variance, the Board may impose conditions, including increased yard setbacks and construction requirements, as it deems necessary to protect the general character of the neighborhoods as well as the public health, safety and general welfare. **(NEW PROVISION – Similar to other allowances by the Board of Zoning Appeals – See Variances)**
 - (3) ~~Proposed structures in any district (except industrial districts) which will cover the maximum allowable percentage of the owner's lot or parcel will not be allowed to exceed the height limitation of the district unless an additional land area of 5,000 square feet plus 20 feet in lot width and 5 feet in each side yard is provided for each additional story which will exceed the required height limitation of the particular district.~~ **(‘Maximum Building Coverage’ is proposed for removal which would make this provision moot).**

6.4 Reduction of Front Yard; Corner Lots. (Previously section 6.6.b.)

~~b. Corner Lots.~~

- a. In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the zone shall be provided on the other frontage.

- b. In the case of corner lots with more than two (2) frontages, the Zoning Inspector Administrator shall determine the front yard requirements, subject to the following limitations:
- (1) At least one (1) front yard shall be provided having the full depth required generally in the zone;
 - (2) No other front yard on such the lot shall have less than half the full depth required generally.
 - (3) For attached housing, see Section 5.7 in place of this subsection b.

6.5 Reduction of Front Yard; Corner Lots. (Previously section 6.6.a.)

- (1) The front yard required for a dwelling in any district which permits residences may be reduced in the case of a dwelling to be located between two (2) existing dwellings which lack the required front yard and which are less than one-hundred (100) feet apart. In such a case the front yard depth shall be no less than that of the deepest adjoining lot.
- (2) ~~In any district, on any lot which fronts on a road having a right-of-way of less than 50 feet in width, a building shall be located at a distance from the centerline of such road not less than the depth of the required front yard in the district plus 25 feet. (This provision is a duplicate of Section 6.6a)~~
- (3) Corner lots which are not reverse frontage lots shall be required to have a front yard of the same depth as the prevailing yard pattern in the district and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.
- (4) In the case of corner lots with more than two (2) frontages, the Zoning Inspector Administrator shall determine the front yard requirements, subject to the following limitations:
 - i. At least one (1) front yard shall be provided having the full depth required generally in the district;
 - ii. No other front yard on such the lot shall have less than half the full depth required generally.
- (5) Required yards along zoning district boundary lines shall be that of the most restrictive district.

6.6 Yard Setback Modifications. (Previously from the Table of Height, Area, and Dimensional Standards)

- ³ ~~Where a yard would be adjacent to a public road that has a right-of-way width of less than 50 feet, the yard shall be measured from a line 25 feet parallel to the street centerline. An unenclosed front porch may extend up to 10 feet into the required front yard.~~

- a. Where a yard would be adjacent to a public road that has a right-of-way width of less than fifty (50) feet, the yard shall be measured from a line twenty-five (25) feet parallel to the street centerline.
- b. An unenclosed front porch may extend up to ten (10) feet into the required front yard.

6.7 Visibility at Intersections. (Previously Section 6.4)

- a. No sign, fence, wall, hedge, planting, structure, or other obstruction shall impede vision within a designated clear sight triangle unless otherwise allowed by the Zoning Administrator. **(NEW PROVISION)**
- b. On a corner lot proposed for subdivision or for construction of a principal building, a clear sight triangle shall be established and shown on official plans. Within the clear sight triangle, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2.5) and ten (10) feet above the centerline grades of the intersecting roads.
- c. Where a local road would enter onto a collector or arterial road, one leg of the triangle shall be measured along the centerline of the local road twenty (20) feet from the street right-of-way of the collector or arterial street, the second leg of the triangle shall be measured two-hundred (200) feet along the centerline of the collector or arterial road, and the third longest leg of the triangle shall connect the two (2) legs.
- d. In other cases, the two (2) shorter legs of the triangle shall be measured fifty (50) feet in each direction along the centerline of each road, measured from the point of intersection of the road centerlines. The third longest leg of the triangle shall connect the two (2) shorter legs.

6.8 (Previously Sections 5.6.b, 5.6.c, and 5.6.d - combined) b. Accessory Structures. Accessory structures shall meet the requirements of ~~Section 5.6.a. above the 'Table of Height, Area, and Dimensional Standards, other than Attached Housing,'~~ except as follows:

- a. Customary structures that are accessory to dwellings may have a reduced minimum setback from side and rear property lines of eight (8) feet, provided they have:
 - (1) Aa maximum height of twenty (25) feet,
 - (2) Aa maximum floor area of 1,200 square feet, and
 - (3) Aare not adjacent to a public street. Such The reduced minimum eight (8) feet foot setback may be reduced to no less than three (3) feet in the Maritime Residential Commercial (MRC) or High Density Residential (R-3) districts.
- b. Accessory structures are not permitted in the required minimum front yard.
- c. Along a side yard where principal buildings are attached to each other, no minimum side yard shall apply for accessory structures.
- d. On a residential lot of less than two (2) acres, no accessory building shall have a height exceeding twenty (25) feet, nor exceed a maximum floor area of 2,000 square feet.
- e. An accessory use or building shall not be the sole use of a lot, except temporarily while the principal use of the lot is being constructed.

(The following requirements are proposed for removal)**c. Minimum requirements for development and siting of single family dwellings**

Zoning District	Sq. Footage	Roof Pitch*	Overhang*	Width***
R-1	1400 sq. ft.	True 5/12	8 inch	True 24 (nominal 28)
R-2	1100 sq. ft.	4/12	6 inch	22 (nominal 24)
R-3	960 sq. ft.	3/12	4 inch	22 (nominal 24)
MRC	960 sq. ft.	3/12	4 inch	22 (nominal 24)
AR	1100 sq. ft.	4/12	6 inch	22 (nominal 24)

* Roof pitch applies to the main roof of the dwelling, not to dormers, porches or other architectural appurtenances.

**Overhang can include gutters and applies only to the front and back of the dwelling.

***Width is measured exterior wall to wall, and is not to include overhangs, etc.

d. Requirements for foundations. All foundations shall meet the requirements of the building code, as applicable. Foundations shall have a complete enclosure of brick, masonry, stucco on a durable material or similar durable attractive material between the ground level and the dwelling that is similar in appearance to other homes in the neighborhood. The enclosure shall include appropriate provisions for access to the underside of the home for maintenance and repair. The Zoning /Building Inspector may waive this requirement where a dwelling is required to be elevated on pilings to comply with floodplain regulations, provided it is compatible in appearance to other homes in the area.

6.9 Standards for Attached Housing. (Previously section 5.7)

- a. Where permitted by Section 5.2, the following dwelling types shall meet the following dimensional standards. ~~See the potential to develop increased density under the Cluster Development Option in Section 6.8 or the Transfer of Development Rights in Section 5.9.~~ (These Sections are proposed to stay in the ordinance, however the ‘reminders’ (above) are unnecessary)

Minimum					
Dwelling Type	Minimum Average Lot Area Per Dwelling Unit ***	Minimum Lot Width	Minimum Front Yard *	Minimum Side Yard, Each, Where Detached **	Minimum Rear Yard
Twin Dwelling Unit	6,000 in R-2 5,000 in other permitted districts	40' per unit	25'	8'	25'
Two Family Detached Dwelling	6,000 in R-2 5,000 in other permitted districts (Moved Below)	80' (Moved Below)	25' (Moved Below)	8' (Moved Below)	25' (Moved Below)
In R-2 District	6,000	80'	25'	8'	25'
In Other Districts	5,000	80'	25'	8'	25'
Townhouses	6,000 in R-2 5,000 in other permitted districts (Moved Below)	24' per unit in R-2; 20' per unit in other districts (Moved Below)	25' (Moved Below)	8' (Moved Below)	25' (Moved Below)
In R-2 District	6,000	24'	25'	8' (end units)	25'
In Other Districts	5,000	20'	25'	8' (end units)	25'
Multi-Family Dwelling Units	6,000 in R-2 5,000 in other permitted districts (Moved Below)	80' (Moved Below)	25' (Moved Below)	8' (Moved Below)	25' (Moved Below)
In R-2 District	6,000	80'	25'	8'	25'
In Other Districts	5,000	80'	25'	8'	25'
* = A maximum of ten (10) feet of the front yard may be occupied by an unenclosed front porch.					
** = Except a minimum setback of twenty-five (25) feet is required from a side lot line along a road right-of-way.					

b. Minimum Lot Area.

- (1) A specific minimum lot area shall not apply to each individual dwelling unit, in order to allow flexibility in layout and to allow for a rental development.
- (2) The permitted density shall be calculated as follows, with area measured in square feet:

The total lot area of the development tract before development.	=	
Minus all areas within wetlands and the 100-year non-tidal floodplain tidal and non-tidal wetlands.	-	
Minus all areas within existing and proposed street rights-of-way and private streets and parking courts.	-	
Minus any preserved open space required by subsection f. below.	-	
Equals the following square footage.	=	
Divided by the minimum average lot area per dwelling unit, as shown in the table above, i.e. 5,000 or 6,000 square feet.	÷	
Equals the following maximum number of dwelling units on the tract.	=	

Note: If an area of land would meet more than one (1) of the above categories, it shall only be deleted once from the total lot area of the tract. For example, the same land area may be wetlands and preserved open space.

c. Height and Coverage.

- (1) All attached dwellings shall have a maximum height of three (3) stories or thirty-five (35) feet, whichever is more restrictive.
- (2) All attached dwellings shall have a maximum building coverage of fifty (50%) percent.

d. Utilities. Attached housing shall only be permitted with County-approved central sewage and central water services.**e. Density Bonus for Senior Housing.** The maximum density of a tract may be increased by twenty-five (25) percent if the development is restricted by lease and by deed to persons fifty-five (55) years and older, their spouses and the physically handicapped.**f. Open Space.**

- (1) If a development tract involves more than two (2) acres in attached housing, then a minimum of twenty-five (25%) percent of the total lot area of the development tract (before development) proposed for attached housing shall be permanently set aside as preserved open space.
- (2) The Planning and Zoning Commission may have the option of reducing the open space requirement to no less than fifteen (15%) percent on infill lots within a County Designated Primary Growth Area or Rural Village, in keeping with the existing character of the Community. In most cases, this preserved open space is intended to be available for recreation use by the residents of the development.

- (3) A permanent system for ownership and maintenance of the preserved open space shall be determined to be appropriate by the Planning Commission. ~~See the definition of Open Space, Preserved in Section 16.~~ **(Implied)**

g. Lot Layout.

- (1) Each individual dwelling unit is not required to be on its own fee-simple lot, provided that the applicant proves to the Planning Commission that there will be an acceptable long-term system to ensure the proper maintenance of any areas that are not divided into individual lots. For example, the development may be owned as a rental development or a condominium arrangement may be legally established.
- (2) If individual dwelling units are not on fee-simple lots, then the development plans shall show that the units have been arranged on the tract so that the same widths of front, side and rear yards are provided as if fee-simple lots would be created for each dwelling.

6.10 Cluster Development Option. (Previously section 6.8) In the AR, R-1, R-2, R-3, or MRC district, the Planning Commission may authorize the reduction of lot areas through a ~~Cluster Development~~, as provided in this ordinance, provided the ~~cluster development~~ does not conflict with growth tiers or any other ordinance and that the following additional requirements are met:

a. The development shall include a minimum parcel of:

- (1) ~~Twenty (20)~~ acres in the AR district; and
- (2) ~~Five (5)~~ acres in any other district it is permitted.

b. Cluster Density.

- (1) Unless further incentives are approved under Section 6.15, the minimum lot area and lot width for each single family detached dwelling within a Cluster Development shall be reduced as follows:

		Minimum Lot Area	Minimum Lot Width
(a)	AR District	30,000 square feet	100 feet
(b)	R-1 District	15,000 square feet	75 feet
(c)	R-2 District	9,000 square feet	70 feet
(d)	R-3 or MRC District	6,000 square feet	50 feet

- (2) For dwelling types other than single family detached dwellings:

- i. The maximum average density for other types of dwellings allowed in the R-2, R-3, or MRC district shall be increased by a total maximum of up to ~~twenty-five (25%)~~ percent above the density that would otherwise be permitted.
- ii. The minimum lot width shall not be reduced from what would otherwise be required.

- c. Open Space. A minimum of ~~twenty-five (25%)~~ percent of the total lot area of the development tract before development shall be permanently set aside as ~~Preserved Open Space.~~ The minimum percentage of ~~Preserved Open Space~~ shall be increased to ~~fifty~~

(50%) percent of portions of the development that include housing types other than single family detached dwellings. See the definition of Open Space, Preserved in Section 16.

- (1) The use of the open space and the method of preservation and ownership shall be subject to approval by the Planning Commission. The use of the open space shall be determined based upon its natural characteristics and the density of the proposed development. Generally, open space should be provided as recreation land in denser developments, and as woodland or agricultural land in less dense developments.
- d. Sewage and Water. Appropriate central sewage disposal and water systems shall be available to each dwellings unit in the subdivision with a lot area of less than one (1) acre, unless a stricter requirement is established by the County Health Department.
- (1) The Planning Commission may approve non-public methods of providing central sewage and water service, such as a community cluster septic system with pre-treatment. Such Approval shall be conditioned upon the applicant proving that there will be suitable system to make sure that the system will be properly funded and professionally maintained over time.
 - (2) The County may require that agreements be put into place to interconnect any private water or sewage system into a larger public system in the future if public service becomes available.
- e. ~~If a density bonus is provided under Section 6.15, the density shall not be increased by more than 20 percent above the density that would otherwise be permitted by this Section 6.8.~~ **(Section 6.15 referred to the ‘Growth Allocation Floating District (Critical Area Ordinance – separate ordinance), so it is proposed for removal.)**
- f. Only housing types that would otherwise be permitted in the applicable district regulations shall be permitted within a Cluster Development.
- g. ~~Except as permitted by the bonus under Section 6.15, the~~ The maximum total density of a tract shall not be increased by more than twenty (25%) percent beyond the maximum density that would be possible under the conventional zoning district regulations.
- (1) If the Zoning ~~Inspector~~ Administrator believes that a proposed ~~Cluster Development~~ could result in a density twenty-five (25) percent greater than what would otherwise be permitted, then he/she shall require that the applicant present a ~~Yield Pplan~~ for the property.
 - (2) ~~Such~~ The ~~Yield Pplan~~ shall be a level of detail typically found in a sketch plan, including showing potential lots and roads, known floodplains and suspected wetlands. ~~Such~~ The ~~Yield Pplan~~ shall estimate the number of new dwelling units that could be lawfully constructed on the property under applicable regulations without applying the ~~Cluster Development Option~~.
 - (3) Detailed septic perc tests are not required for ~~such~~ sketches, but new septic systems shall not be assumed to be possible in areas with obviously severe limitations.

- h. ~~Such~~ The Yyield Pplan shall be reviewed by the Zoning ~~Inspector~~ Administrator or Director of ~~DTCS~~ the Department of Technical and Community Services to determine whether it represents a reasonably accurate estimate of the number of dwelling units possible on the site, both physically and legally. If ~~such~~ estimates are determined to not be accurate, the applicant shall be required by the Zoning ~~Inspector~~ Administrator to revise the Yyield Pplans
- i. Based upon the County-accepted Yyield Pplan, the maximum total density shall be no greater than one-hundred twenty-five (125%) percent under the Cluster Development Option as would be permitted under conventional development (~~unless a further density bonus is approved under Section 6.15~~).
- j. The Cluster Development Option shall not be combined with the Transfer of Development Rights.

SECTION 7
OVERLAY AND FLOATING DISTRICTS

(*Section 7 was previously entitled ‘Administration and Enforcement.’ A new section seven (7) has been created for overlay and floating zone districts and ‘Administration and Enforcement’ may be found later in the document. Several provisions from other areas of the code have been moved here. A notation will be found at those sections).

7.1 Airport Overlay District (AP). (NEW Section)

a. Establishment of Airport Zones: There are hereby created and established certain zones within the Airport District Overlay ordinance, defined in **Section 17**, and as shown on the Official Zoning Map, hereby adopted as part of this ordinance, which include:

- (1) Approach Surface Zone
- (2) Conical Surface Zone
- (3) Horizontal Surface Zone
- (4) Primary Surface Zone
- (5) Transitional Surface Zone

b. Permit Applications.

- (1) As regulated and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any objects (natural or manmade), that fall within any of the abovementioned airport zones as depicted on the Airport Overlay Zone, shall first notify the Department of Technical and Community Services.
- (2) The Department of Technical and Community Services will submit a Federal Aviation Administration (FAA) 7460-1 form Notice of Proposed Construction and any supporting material to the FAA to obtain an obstruction review. FAA Form 7460-1 and any supporting material will also be submitted to the Maryland Aviation Administration (MAA) at the same time.
- (3) No construction may proceed until the FAA and MAA have made a determination.
- (4) If the FAA or MAA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Overlay Ordinance.
- (5) If the FAA or MAA returns a determination of a penetration of airspace, the permit shall be denied, and the applicant may seek a variance from the Board of Zoning Appeals from such regulations. (*Added clarification as to where a variance must be sought)
- (6) No permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.
- (7) Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1, as amended or replaced). Determinations of whether to grant a variance will depend on the

determinations made by the FAA or MAA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA or MAA has placed the proposed construction in:

- i. No Objection - The subject construction is determined not to exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
- ii. Conditional Determination - The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance may be granted contingent upon implementation of mitigating measures as described in Section 8 (e) - Obstruction Marking and lighting.
- iii. Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.
- iv. Requests for variances may be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this ordinance.

c. Use Restrictions.

(1) Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water within the Airport District Overlay in such a manner as to create electrical Interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Airport.

(2) The following uses are expressly prohibited in the Airport Overlay District:

- i. Manufacturing establishments or other uses which produce smoke interfering with the safe use of the airport.
- ii. Rifle ranges and private landing fields which would interfere with the health, safety and general welfare of the public in the use of the airport.
- iii. All uses or structures which would emit or discharge smoke, gasses and odors that would or may interfere with the health, safety and general welfare of the public in the use of the airport.
- iv. Any uses which would create electrical, magnetic or other interference with radio communication between the airport and aircraft, making it difficult for flyers to distinguish between airport lights and others, resulting in glare in the eyes of the flyers using the airport, impair visibility in the vicinity of the

airport, or otherwise endangering the landing, take off or maneuvering of aircraft.

d. Pre-Existing Non-Conforming Uses

(3) The regulations prescribed by this section must not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use.

(4) No nonconforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a nonconforming use, once substantially abated may only be reestablished consistent with the provisions herein.

e. Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions of this ordinance may be conditioned according to the process described in Section (b) to require the owner of the structure or object of natural growth in question to permit the County, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

f. Violations and Penalties. Violations and penalties shall be as established in Section 16.3 and/or Section 16.4 of this Ordinance.

g. Appeals. Appeals may be brought as provided in Section 10 of this Ordinance.

h. Conflicting Regulations. Where a conflict exists between any of the regulations or limitations prescribed in this ordinance and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

(Staff recommends the removal of the Business and Technology Corridor District (BT) as it is a floating zone that has not been used since its creation).

5.4 BT Business and Technology Corridor District.

- a. ~~Purposes~~ This District is to provide for the location of businesses, research and cultural facilities compatible with, and directly related to university services and programs. Measures are to be taken to ensure that the landscaping and site design are in keeping with: 1) a gateway to a university campus and 2) any traffic access limitations of the new access road.
- b. ~~Principal Uses~~ Only the following principal uses shall be permitted by right within the BT District.
1. ~~Catering establishment and/or Banquet facility~~
 2. ~~Community center or Library~~

- ~~3. Live theater, Movie theater or Dinner theater, but with any Adult Use being prohibited~~
- ~~4. Membership club~~
- ~~5. Motel or Hotel~~
- ~~6. Museum or Art gallery~~
- ~~7. Offices, Banks and Other Financial institutions~~
- ~~8. Places of worship~~
- ~~9. Public buildings of an administrative or cultural type~~
- ~~10. Restaurant~~
- ~~11. U.S. Postal facilities~~
- ~~12. Visitor center or Tourism information Center~~
- ~~13. Research and testing center, not including bulk manufacturing nor uses needing special exception approval~~
- ~~c. Accessory Uses — The following accessory uses shall be permitted by right within the BT District, in addition to accessory uses that are customarily incidental to allowed principal uses:~~
 - ~~1. Day care center as an accessory use within a principal building, utilizing a floor area equal to a maximum of 20 percent of the building footprint of the principal building.~~
 - ~~2. Veterinary clinic or Animal hospital as an accessory use within a Research Center~~
 - ~~3. Retail stores as an accessory use within a principal building, utilizing a total maximum of 20 percent of the total building floor area of the principal building.~~
- ~~d. Special Exception Uses — The following uses shall be allowed by special exception within the BT District:~~
 - ~~1. Research involving poultry or livestock, which shall only be allowed as accessory use to an existing research center within Somerset County~~
 - ~~2. Bakery, other than a bakery within a restaurant or catering establishment~~
 - ~~3. Other uses that the applicant proves to the satisfaction of the Board of Appeals: a) are similar to uses listed as permitted by right or special exception in the BT District, and b) will be compatible with and not detrimental to the purposes of the BT District.~~
- ~~e. Dimensional, Landscaping and Siting Requirements:~~
 - ~~1. The Dimensional Requirements for the BT District shall be the same as the C-2 District. See Section 5.6.~~
 - ~~2. Additional landscaping, traffic access and site planning requirements may be required by the Board of Appeals as a condition of special exception approval or by the Planning Commission as a condition of site plan review in order to meet the purposes of this district.~~

5.5 Additional Provisions Within the “O-C” Overlay Commercial District.

7.2 O-C Overlay Commercial District. (Previously section 5.5)

- a. **(‘Purposes’ definition moved to 5.2(b)(2))** ~~Purposes~~ — The O-C district is intended to encourage well-planned and well-coordinated development at selected key existing intersections along a major highway. A development under this section is required to provide well-coordinated traffic access, substantial landscaping, and coordinated site planning. In return, a developer may be permitted to develop business uses that otherwise would not be permitted in the underlying zoning district. This district is primarily intended to apply along U.S. Route 13. It is the intent that this district would be expanded in the

~~future along Maryland Route 413, once that highway is “dualized” to include four lanes of through traffic.~~

- b. ~~As an option to an applicant, the O-C Overlay Commercial district allows an applicant to develop commercial uses within areas within 1,000 feet of the center of street intersections shown on the Zoning Map as O-C.~~ **(Reworded and clarified below – allows for a greater area to be eligible - in areas where commercial development is appropriate)**

- a. **Applicability.** The O-C Overlay shall apply to properties entirely or partially within 1,000 feet of the center of street intersections shown on the Official Zoning Map as O-C and where such parcel was lawfully in existence prior to **[DATE OF PROPOSED ORDINANCE ADOPTION]**. **(Clarification to what properties are eligible)**

- ~~c. Within a development approved under this Section 5.5, uses shall be allowed that are listed as permitted by right or special exception in the C-2 district in the same manner as if the land would be located within the C-2 district, in addition to uses permitted in the underlying zoning district.~~ **(Reworded below)**

- b. **Permitted Uses.** Permitted use are those listed as permitted by right or special exception in the C-2 district in addition to uses permitted in the underlying zoning district.

- ~~d. Within a development approved under this Section 5.5, uses shall meet the dimensional requirements listed in Section 5.6 for the O-C district, instead of the requirements of the underlying zoning district.~~ **(Reworded below)**

- c. **Development Standards.**

(1) Permitted and special exception uses shall meet the dimensional requirements listed in **Section 6.2** for the O-C district instead of the requirements of the underlying zoning district.

(2) For lots and uses that are not within a development approved under this Section 5.5, the requirements of the underlying zoning district shall apply instead of the requirements of this O-C district.

- ~~f. A development within the O-C district shall require approval as a special exception use by the Board of Appeals, after being reviewed by the Planning Commission. After an O-C development has been approved in regards to the site layout, traffic management and landscaping, then individual uses shall be permitted as provided in subsection “c.” above.~~ **(Reworded below)**

- c. Development within the O-C district other than permitted uses by right shall require approval as a special exception use by the Board of Zoning Appeals, after being reviewed by the Planning Commission.

- d. After an O-C development has been approved in regards to the site layout, traffic management and landscaping, then individual uses shall be permitted as provided in subsection (c) above.

- e. The following additional requirements shall apply within the O-C district:

(1) A minimum of one deciduous shade tree ~~shall~~ **must** be planted for every 3,000 square feet of new impervious surface. ~~Such~~ Trees shall be planted within and adjacent to buildings and paved areas.

(2) The applicant ~~shall~~ **must** prove to the satisfaction of the Board of Zoning Appeals that the site plan has been prepared to maximize preservation of attractive healthy trees in

prominent locations as viewed from public roads and adjacent dwellings.

- (3) No new paving or stone surfaces ~~shall be~~ are permitted within fifty (50) feet of the right-of-way of a public road or highway, except for approximately perpendicular driveway and street crossings.
- (4) No off-premises advertising signs ~~shall be~~ are permitted within the development.
- (5) No new commercial building or truck loading dock ~~shall~~ is permitted to be placed within one-hundred (100) feet of a lot line of an existing dwelling.
- (6) A minimum of twenty-five (25%) percent of the total land area of the development ~~shall must~~ be landscaped in trees and shrubs or remain forested.
- (7) The applicant ~~shall must~~ prove to the satisfaction of the Board of Zoning Appeals that the entire development has been planned to maximize the use of interior traffic access, and to minimize the number of individual driveways onto public streets. In most cases, this shall involve the construction or extension of a service road running approximately parallel to a highway. The Board of Zoning Appeals may require the submission of a traffic study by a qualified professional, funded by the applicant.
- (8) Within a development approved under this section, individual lots may be separately owned and developed by different entities, provided that legally binding mechanisms are established in advance, in a form acceptable to the County, to make sure that the development will be coordinated and be consistent with the approved development plan.
- (9) The applicant ~~shall must~~ provide a conceptual sketch plan showing all land that the applicant owns, equitably owns, or otherwise controls in the vicinity. ~~Such~~ The sketch plan ~~shall must~~ show a proposed system of traffic access that would allow efficient and coordinated access to all ~~such~~ lands if they are eventually developed. Detailed engineering or lot layouts are not required on the sketch plan.

7.3 Critical Area Overlay District (CA-1). Provisions for the Critical Area Overlay District (CA-1) are as set forth in the Somerset County Critical Area Ordinance.

(Previously section 6.13 – Proposed to refer users to Critical Area Ordinance)

7.4 Planned Unit Development Floating Zone (PUD). **(Moved from Section 14 – Planned Unit Development Floating Zone)**

~~14.1 Definition of PUD.~~

~~Planned Unit Development (or “PUD”)—An area of land developed as a single entity, in approved phases, which is totally planned to provide for a variety of residential, commercial and related uses, as well as common areas or open space.~~ **(Moved to Section 5.2.c.1)**

~~14.2 Purposes. The purpose of this provision is to encourage well designed, larger scale developments which provide a balanced mix of land uses, including a variety of housing types and commercial uses, within a planned environment in accordance with the goals of the Comprehensive Plan. It is designed to allow for flexibility of design and innovative techniques, as well as to provide a~~

high degree of environmental protection. This is accomplished by providing a simplified mechanism for review and approval of the project, while maintaining adequate standards and safeguards. (Moved to Section 5.2.c.1)

a. ~~14.3 PUD Standards. Applicability.~~ A PUD planned unit development will be considered a “floating zone” which allows for increased flexibility in approximate locations where necessary infrastructure and services are accessible. ~~A PUD shall be limited to the following districts: R1, R2, R3, MRC, and A R. Land zoned Commercial which is contiguous to the property may be included if commercial uses are planned within the PUD.~~ (Reworded) A planned unit development will only be considered for the following districts: Low Density Residential (R-1), Medium Density Residential (R-2), High Density Residential (R-3), Maritime Residential Commercial (MRC), and Agricultural Rural (AR). Land with a commercial zoning designation that is contiguous to the property(s) may be included if commercial uses are planned within the planned unit development.

b. Standards.

(1) Lot and Open Space Requirements.

- i. The minimum required land for a PUD planned unit development is forty (40) acres, except on infill sites located within designated growth areas served by public sewer and water, in which case the required land can be reduced to fifteen (15) acres.
- ii. There ~~shall be~~ is no minimum lot size for individual structures nor ~~shall there be~~ road frontage or side setback requirements in order to provide attractive and interesting arrangements of buildings. However, any uses within one-hundred (100) feet of the outer boundaries of the PUD planned unit development ~~shall must~~ meet the standard zoning requirements of the underlying zoning district.
- iii. Similarly, commercial uses/parking areas abutting public roads must provide adequate setbacks to harmonize with adjacent existing uses.
- iv. All roads must meet County standards, but the required right-of-way may be reduced as long as safety and traffic considerations are met.
- v. A minimum of thirty (30%) percent of the gross site area must be reserved as ~~P~~preserved open space. Preserved open space may not include roads, required parking areas or septic treatment systems, but may include a golf course and non-commercial recreation areas, including land designated for marina or community pier access.
- vi. Preserved ~~O~~ open ~~S~~ space must be comprised of at least fifty (50%) percent usable uplands, and shall provide a corridor of at least fifty (50) feet in width along perennial streams, as well as demonstrate adequate protection of sensitive areas. Sufficient evidence must be offered that ~~P~~ preserved ~~O~~ open ~~S~~ space will be maintained by a property owners’ association, community trust or similar entity, or dedicated to a public agency.

(2) Allowed Uses.

- i. The following uses may be approved within a **PUD** planned unit development:
 - (a) Dwelling units may include single family (detached or semi-detached), ~~two-family~~, townhouse and multi-family structures.
 - (b) Mixed use buildings that may include business and/or commercial uses on ground floors and residential uses above. **(NEW Provision)**
 - (c) Accessory uses, such as home occupations, shall be allowed in the same manner as the underlying zoning district.
 - (d) Places of worship, community buildings and non-commercial recreation uses shall be allowed, as well as recreation uses limited to use by residents and their occasional invited guests.
 - (e) Commercial uses listed in **Section 5** as being allowed within the C-1 or MRC districts shall also be allowed within a **PUD** planned unit development, provided that:
 1. The total land area covered by commercial uses, including accessory parking, shall not exceed five (5%) percent of the land area of the **PUD** planned unit development that is not within a commercial district;; and
 2. The specific areas to be occupied by commercial uses shall be approved as part of the **PUD** planned unit development application;; and
 3. The applicant ~~shall~~ must prove that commercial uses will be located and planned so as not to be detrimental to adjacent properties.
 - (f) Golf course, which may be submitted for approval at the same time as the **PUD** planned unit development.
- ii. The range of dwelling types is listed below for each underlying zoning district, unless the Planning Commission waives the requirements based on market analysis or other information provided by the applicant.

	Minimum	Maximum
A-R District		
Single Family Detached	50%	90%
Townhouses or Single Family Semi-Detached	10%	50%
Multi-Family	0%	30%
R-1 District		
Single Family Detached	40%	70%
Townhouses or Single Family Semi-Detached	30%	50%
Multi-Family	0%	30%
All Other Permitted Districts		
Single Family Detached	30%	60%
Townhouses or Single Family Semi-Detached	20%	60%
Multi-Family	20%	50%

(3) Density.

- i. The Effective Residential Land (ERL) area on which residential density is based is the gross site area minus the following:
 - (a) Rights-of-way of streets or cart-ways of private streets without a right-of-way;
 - (b) Tidal wetlands and designated sensitive areas;
 - (c) Areas occupied by principal non-residential uses and their accessory parking.
- ii. Non-Tidal Wetlands and sensitive area buffers are not deducted for this purpose.
- iii. The maximum permitted density of the PUD planned unit development shall be calculated according to the following formula. The intent is to allow a density bonus of approximately twenty (20%) percent beyond the density that would otherwise be allowed.

Permitted Density = ERL X 43,560/minimum lot size of the underlying zone, plus a twenty (20%) percent dwelling unit density bonus.

- (4) Sewage and Water Facilities. Prior to accepting a development plan for a PUD planned unit development for preliminary approval, the developer must furnish satisfactory evidence that the Sanitary District will allocate water and sewerage for the project. If municipal water and sewerage is not available, acceptable evidence must be provided that a new public utility district or shared facility will be created, meeting all County Health Department and fiscal surety requirements, as well as those of other agencies with jurisdiction.

(5) Landscape Standards.

- i. A landscape plan is required of all PUD planned unit developments. An important element of such a plan is buffering, which can provide open space and habitat value while provided a transitional zone between uses and abutting properties.
- ii. Required tree buffers or landscaped berms on the perimeters of PUD planned unit developments abutting lower density zones are as follows:
 - (a) None for detached single family dwellings;
 - (b) Twenty-five (25) feet for townhouses and duplex;
 - (c) Fifty (50) feet for multi-family dwellings;
 - (d) One-hundred (100) feet for office and commercial space or office parks.
- iii. Buffers must also be established around environmentally sensitive areas within PUD planned unit development boundaries according to Chesapeake Bay Critical Area or other environmental program requirements. Tree buffers, or greenways, are strongly recommended along streams and connecting forested areas.
- iv. Stormwater facilities should be designed and placed in such a way as to enhance the overall project by providing passive or active recreation areas when possible.

(6) Circulation.

- i. Roadways and footpaths should be designed to maintain traffic circulation both within the PUD planned unit development and with connecting roads. The use of cul-de-sacs should be balanced with the need for interior circulation of vehicular and pedestrian traffic. Road width may be less than the County standards if safety and traffic requirements are met and the design harmonizes with land uses.
- ii. Bike and pedestrian traffic are to be encouraged through the placement of paths linking uses within the PUD planned unit development and neighboring developments, community facilities and recreation areas. For safety and aesthetic reasons, these paths should be separated from roadways; such paths are conducive to low or internal vehicular traffic and serve to integrate the community.

- (7) Signage. A signage plan should be presented to demonstrate a coordinated approach to informational, directional and safety signage within all areas of the PUD planned unit development. Commercial signs should be limited and avoid impacting adjacent residential areas. A single sign shall be allowed to designate a commercial or office center. Individual uses permit one on-site to be mounted flush to the structure. No neon, moving, animated or freestanding pole signage shall be is permitted.

7.4.1 PUD-Submission.

a. Required Plans. The following site plans are required:

- (1) Existing Conditions Plan(s) showing existing topo, drainage, steep slopes, wetlands, critical areas, existing buildings, historic and archaeological sites, poor soils, property boundaries, adjacent properties (tax map and owner), administrative boundaries, and existing zoning.
- (2) Layout Plan(s) showing proposed land uses, land bays general location, and hierarchy of roads, streets, parking areas, footpaths, areas to be preserved/protected, proposed buffers around perimeter, and between dissimilar land uses. The Layout Plan shall identify the amount, type and density of development within each portion of the tract, and show a summary development schedule of acreage, housing units, nonresidential square footage, and parking.
- (3) Phasing Plan(s) showing the boundaries and sequence of each phase of the development and summarizing the proposed development schedule for each phase.

b. Drafting Standards. In general, site plans shall follow requirements as outlined in the Somerset County Subdivision Ordinance, with the following changes/additions:

- (1) The maximum size of plan sheets and the scales shall be approved in advance by the Zoning Inspector Administrator. A vicinity map shall also be included at an appropriate scale (such as one inch equals one mile (1" = 1) mile).
- (2) Commercial areas must show proposed use, location of outdoor lighting, location of commercial center sign, and total impervious surface.
- (3) The following narratives and support documents are also required: A signed statement showing unified ownership or control of the site by the applicant.

c. Narratives.

(1) Environmental Impact Report (EIR). The EIR shall assess existing conditions on the site and evaluate how the proposed development will affect environmentally sensitive areas.

- (i) Should the site be within the Chesapeake Bay Critical Area (“CBCA”), a statement of how the proposed PUD planned unit development addresses goals and objectives of the CBCA Program is required. The Critical Area boundary and the one-hundred - (100) feet foot - wide buffer shall be described and comments of the Maryland Natural Heritage Program shall be included. Also, afforestation/reforestation plans required by the Program shall be outlined in the EIR, as shall review comments of the DNR Forester.
- (ii) The report must assess the amount and type of forest cover, with delineations and conservation plans in accordance with the Maryland Forest Law and County forest conservation regulations where applicable; amount and type of wetlands; soil types, floodplain, and drainage characteristics.
- (iii) Discussion of the affects effects of the project, describing density, type of units, impervious surface, sewer treatment/water supply, and stormwater management must be provided. Also, proposals to protect sensitive areas and open space are to be covered.
- (iv) Documentation of findings shall must be provided.

(2) Cultural Impact Report (CIR).

- (i) Historical Impact Statement. A Historical Impact Statement must be submitted with the Preliminary Plat application. This statement should discuss any known historical significance to the site chosen for the PUD planned unit development. (Note: The Department of Technical and Community Services retains records from the Historical Society which lists both National and State Historical Districts and Places.) If a historic structure/place is found on the site, the developer will be required to retain the site. It may be used as amenities for the proposed development and should be incorporated into the proposed plan. Buffers, plantings, easements, etc. will be required as conditions of approval to preserve the historical integrity of the structure and site.
- (ii) Archaeological Impact Statement. An Archaeological Impact Statement must be submitted at the time of project review. The applicant is advised to contact either the Somerset County Historical Trust, the Maryland Historical Trust or a qualified archaeologist to determine if there are known archaeological sites on the property to be developed. Documentation establishing an archaeological site is required from a state agency or independent group within thirty (30) days of a review request from the developer or it is assumed no sites exist on the property.
- (iii) Community Impact Statement.
 - (a) A Community Impact Statement shall be submitted by the applicant with the Preliminary Plat application. This statement shall consider the impact of the proposed development upon public utilities and the public school system. Data shall be included on the available capacity of existing systems and cite applicable County or standard standards

and shall show how the development will not overload the community services and facilities.

- (b) Any adverse impacts on the character of the surrounding neighborhood and actions the developer will take to remedy it, ~~shall~~ must also be provided. The developer should include various means by which the residents living in the ~~PUD~~ planned unit development will be integrated into the greater community.
- (iv) Transportation Impact Statement. The developer should submit a consultant study, with the preliminary plat application. The ~~S~~study shall show existing and planned capacity of roads in the site vicinity, both before and after full development, taking into account annual growth of background traffic. The study should show the increase of traffic due to the development itself and how any resulting deficiencies will be rectified. The study should include traffic signal capacity at nearby intersections and the County should have some flexibility to determine how far beyond the site it is reasonable to evaluate. The proposed ~~PUD~~ planned unit development plan should include proposals alignment problems.
 - (a) This section should be reviewed by the State or by a consultant to the County.
 - (b) The requirement for this study may be waived in the case of small ~~PUD~~ planned unit developments (less than fifty (50) dwelling units) provided the State approved proposals for access points to the adjacent road system.

(3) Covenants and Restrictions.

- (i) Any draft planned covenants, deed restrictions, and community association agreements must be provided to the Planning Commission with the final plan. The Planning Commission may require additional covenants.
- (ii) Protective covenants for sensitive areas and buffers, including Critical Area requirements shall be included in these documents. Also, maintenance plans for community areas and stormwater facilities must be provided for review, along with designation of the entity responsible.

7.4.2 PUD Review.

- a. Conference. A pre-submittal conference with the Department of Technical and Community Services (DTCS) is required at which time, procedures, ~~PUD~~ planned unit development standards, zoning, environmental issues, and the subdivision of land will be discussed. Compatibility of the ~~PUD~~ planned unit development application to the site and with the Comprehensive Plan will be reviewed. At least seven (7) days prior to the conference, the developer shall submit a ~~S~~sketch ~~P~~plan showing the site, basic layout of streets and buildings and proposed density.
 - (1) The applicant and/or his representative shall be present, as well as the Zoning ~~Inspector~~ Administrator and appropriate staff of DTCS.
 - (2) The ~~S~~sketch ~~P~~plan shall be offered to the Planning Commission for an advisory review. However, no formal action shall be taken, and the County shall not be bound by comments made or not made at the ~~S~~sketch ~~P~~plan review stage.

- b. PUD Planned Unit Development Preliminary Plat. The first formal application for a PUD planned unit development shall occur at the same time as an application for Preliminary Plat approval under the County Subdivision Ordinance. The preliminary plat shall meet applicable requirements of the County Subdivision Ordinance and this Section 14. The preliminary plat shall be submitted at least thirty (30) days prior to the Public Hearing date at which Planning Commission approval is sought.
- (1) An Environmental Impact Report and Community Impact Report, as described above, shall be submitted along with the application.
 - (2) The preliminary plat must identify land use, type, location, quantity, design, and density of land use, as well as general placement of roads and pedestrian paths. Detailed plan requirements are described under “Site Plan.”
 - (3) The County’s Technical Advisory Committee (TAC) shall be involved in the review of a PUD planned unit development in the same manner as a subdivision as provided in the Subdivision Ordinance.
- c. PUD planned unit development Public Hearing. The Public Hearing may be held at a regularly scheduled Planning Commission hearing and shall be advertised in accordance with Article 66B the Land Use Article, Annotated Code of Maryland. Adjacent property owners shall be required to be notified by the County Staff applicant via certified mail. Certified mail receipts must be received by the Department of Technical and Community Services at least five (5) days prior to the Public Hearing.
- (1) Within thirty (30) days of the Public Hearing, the Planning Commission shall render its decision in writing to the applicant and shall issue findings in fact and conclusions describing the reasons for approval, any conditions or for the denial of the plan. These findings shall include the following:
 - i. Consistency with the County Comprehensive Plan.
 - ii. Description as to whether the project is in the public interest with reference to the proposed effects addressed in the Community Impact Statement.
 - iii. Description as to whether the project adequately protects sensitive areas, provides afforestation/reforestation and provides for suitable open space for the proposed density, and the adequacy of proposals for maintenance.
 - iv. Determination as to the adequacy of roads, public services and the aesthetic and site requirements of this Ordinance.
 - v. In the case of a phased development plan, the sufficiency of terms and conditions intended to protect the interests of the public and the residents of the PUD planned unit development in the completion of the project.
- d. PUD Planned Unit Development Final Plat. A final plat shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting at which approval is sought. Within thirty (30) days of submittal, the Planning Commission will notify the applicant in writing of its decision, describing the reasons of approval or denial.
- (1) The final plat meets applicable requirements of the County Subdivision Ordinance and the “Site Plan” requirements of this Section 14.
 - (2) The final plat shall contain a narrative covering environmental and cultural issues including CBCA and how they are addressed in the final plan design. All bonding requirements shall must be met prior to recording.

- (3) Upon approval, the **PUD planned unit development** shall be filed with the Clerk of Courts and the County Zoning Maps shall be altered to show the approved status of the **PUD planned unit development**.
- e. **“Minor PUD Planned Unit Developments.”**– **PUD Planned unit developments** which are proposed for urban infill, and other sites difficult to develop, on fifteen (15) acres of land qualify as **“Minor PUD planned unit developments.”**–Also qualifying are additions to or areas immediately adjacent to existing **PUD planned unit developments**. For these Minor **PUD planned unit developments**:
 - (1) Cultural Impact Reports are not required;;
 - (2) Buffers may be reduced or eliminated by the Planning Commission between abutting properties when appropriate; and
 - (3) The procedure is reduced to two steps: the pre-submittal conference and the final plat, which is presented at a public hearing.

7.4.3 Amendments to an Approved PUD Planned Unit Development.

- a. Minor changes which do not disturb basic design or density may be proposed prior to approval of the final plan, provided they are in keeping with the preliminary plat. Any proposed changes after final approval shall require reapproval by the Planning Commission.
- b. If the final plat application includes major changes from the approved preliminary plat application, then the Planning Commission may first require reapproval as a preliminary plat. Major changes include substantial changes in layout, open space, overall density, addition or subtraction of land to the tract, and addition of new commercial uses.
- c. Failure to apprise DTCS of proposed changes to the plan constitutes a zoning violation and may result in the suspension or withdrawal of **PUD planned unit development** approval by the Planning Commission.

7.5 Utility Scale Solar Energy Facility Floating Zone (SEF)

a. Statement of Intent.

The purpose of the utility scale solar floating zone is to allow for the orderly development of utility scale solar energy facilities typically generating more than two (2) megawatts in electricity (AC) that are appropriately sited and sized. Furthermore, it is intended that utility scale solar energy facilities are not placed on prime agricultural lands, are aesthetically attractive, are placed so as to protect the commercial viability of the U.S. Route 13 and M.D. Route 413 corridors, and are compatible with the surrounding neighborhood.

b. Application for Floating Zone.

Refer to **Section 7.7** ‘Procedure for Floating Zone District Approval.’ **(*Planning Commission: This section informs the applicant that two (2) public hearings are required by both the Planning Commission and County Commissioners and outlines the general procedure for application)**

c. Applicability.

- (1) Utility scale solar energy facilities will only be considered on parcels designated as 'Agricultural – Rural' (AR) or 'General Industrial' (I-2).
- (2) Siting of utility scale solar energy facilities will not be considered for placement within 1,500 feet of the right-of-way for US Route 13, Ocean Highway or MD Route 413, Crisfield Highway.
- (3) Utility scale solar energy facilities may not be considered for parcels consisting of 50% or more prime agricultural soils as determined by the Natural Resources Conservation Service Soil Service Soil Survey as Class I, II, or III, and as further advised by the Somerset County Soil Conservation District.
- (4) Utility scale solar energy facilities will not be considered for locations designated as a Growth Area by the Somerset County Comprehensive Plan or a Priority Funding Area.

d. Site Plan Requirements.

- (1) Site Plans must be submitted in accordance with [Section 8.15](#)
- (2) Additional site plan information required must include, but is not limited to the following:
 - i. Total acreage of the parcel(s), acreage on the parcel(s) within the limits of disturbance, acreage under the solar energy facility equipment including panels, inverters, transformers, and wiring;
 - ii. The amount of energy in megawatts (MW) that the facility is expected to generate in alternating current (AC) and direct current (DC);
 - iii. Dimensions, locations, and orientation of the solar energy equipment. The site plan must also show the type of system proposed (i.e. tracking or stationary);
 - iv. The number of posts or pilings anticipated to be placed on the parcel(s);
 - v. The materials that are anticipated to be utilized (i.e. aluminum, copper, etc.) and approximate percentages;
 - vi. Location of interconnection to any existing substations. In the event that a new substation or connector station is proposed, it must also be shown on the site plan;
 - vii. Location of staging areas for construction including details describing the materials to be used as well as the location of any permanent structures for the long term maintenance of the facility or offices;
 - viii. The location of internal access roads and materials to be used;
 - ix. Existing and proposed drainage facilities on the parcel(s);
 - x. Distances to dwellings on adjacent properties;
 - xi. Site distance triangles, if applicable;
 - xii. Location of fencing, if applicable;
 - xiii. If applicable, a landscape plan that addresses maintenance of any dead or dying vegetation;
 - xiv. Any additional information requested by the Zoning Administrator.

e. Additional Considerations.

(1) A narrative of the proposed utility scale solar energy system must accompany the application and site plan. The narrative must include the following, but is not limited to:

- i. Upgrades or improvements to the current electric grid that are required to support the proposed solar energy facility;
- ii. The determination or status of the applicant(s) intent to pursue interconnection to the grid and the status of the application for a 'Certificate of Public Convenience and Necessity' (CPCN) with the Maryland Public Service Commission (PSC);
- iii. A plan for the long term maintenance of the facility is required. Innovative solutions are encouraged. The long term maintenance plan must address the following:
 - (a) Solar energy equipment including panels, racking, inverters, transformers, substations, or connector stations (if applicable), and wiring;
 - (b) Drainage;
 - (c) Turf, along with any anticipated herbicide and pesticide usage;
 - (d) Other landscaping, including a plan for the maintenance of dead or dying vegetation;
 - (e) Invasive species management;
 - (f) Natural habitat protection and mitigation measures, if applicable;
 - (g) Fencing, if applicable;
 - (h) Glare;
 - (i) Noise and dust control during construction.

A maintenance plan is required and must be approved by the County as part of an application for a building permit. The maintenance plan must be accompanied by an appropriate surety in the form of cash, an irrevocable letter of credit, or a bond in an amount equal to 100% of the cost of maintenance for landscaping including turf and fencing plus a ten (10%) contingency for a period of two (2) years. This amount may be reduced to fifteen (15%) percent of the landscaping and fence maintenance required for a period of thirty (30) years based on an estimate prepared by a Maryland licensed engineer provided that the Department of Technical and Community Services has determined the survivability of vegetation and that any other issues identified have been resolved. The landscaping and fencing maintenance cost estimate must be reevaluated every ten (10) years by a Maryland licensed engineer. In the event that the solar energy facility continues operation in any capacity after a period of thirty (30) years, another maintenance plan must be submitted and approved by the County with an accompanying financial surety as provided above.

- iv. A construction plan including, but not limited to, hours of operation, duration of construction, number of trucks entering and leaving the site, lighting, anticipated noise generated, etc.
 - v. A drainage plan is required as part of stormwater management in conformance with current Maryland regulations.
 - vi. The applicants must provide a plan for any remaining portion of any parcel that is not designated to be developed for the solar energy system. This may include the continuance of farming on a portion of a parcel, pollinator friendly habitats, or others.
- (2) All applicable local, state, and federal regulations must be adhered to. This may include, but is not limited to: the Chesapeake Bay Critical Area Ordinance, Forest Conservation Ordinance, erosion and sediment control, stormwater regulations, and the Floodplain Ordinance.
 - (3) Construction must begin within one (1) year of approval by the County Commissioners. Extensions may be granted by the County Commissioners, however in no event shall the extension surpass a total period of three (3) years.
 - (4) Future Technology: In the event that the solar energy facility proposes to change its footprint, height, or any other modification that materially affects the impacts created by the facility at the time of installation due to technological advances after initial installation, county approval is required.
 - (5) In the event that it is determined by the Maryland State Health Department or any other applicable government agency that the solar energy facility is comprised of hazardous materials at any point after installation, the owner or assigns is jointly and severally liable for any mitigation required.
 - (6) Furthermore, if on-site storage of electricity is proposed for or after initial installation, a plan for maintenance and emergencies must be submitted to the County before placement on the parcel(s).
 - (7) Panel supports or solar array posts are not allowed to be placed in drainage ditches. A fifteen (15) foot wide maintenance area must be provided adjacent to ditches.
 - (8) Collector-style solar energy facilities that utilize mirrors are not permitted.
 - (9) All wiring must be underground except where necessary to connect to the grid.
 - (10) Topsoil is not permitted to be removed from the property(s).
 - (11) Materials and solvents used for cleaning solar energy equipment must be biodegradable.
 - (12) Any required right-of-way(s) must be identified and secured through an easement, lease, service agreement or other legally binding document prior to site plan approval.
 - (13) In the event that the Maryland Public Service Commission's (PSC) Certificate of Public Convenience and Necessity (CPCN) conditions are more stringent than those required by the County, the stricter of the two (2) must apply.
- f. Financial Surety.

- (1) Financial surety will be required for decommissioning and the long term maintenance of the landscaping and fencing in the form of cash, and irrevocable letter of credit, or a bond. A bond for the repair of roads may be required as determined either by the Maryland State Highway Administration or Somerset County Department of Public Works Roads and Waterways Division.

g. Additional Notification Requirements.

- (1) A single point of contact must be provided to the Department of Technical and Community Services for any change in solar energy facility ownership in order to address complaints and must be updated annually.
- (2) A public informational meeting must be held by the applicant(s) separate from Somerset County required meetings and hearings for all interested parties including adjacent property owners to explain the project and discuss potential impacts. The informational meeting must be held prior to the first meeting of the Planning Commission on the application.
- (3) Local fire departments and emergency services personnel must receive notice of the proposed facility by the applicants. In the event that training is desired by these persons, the solar energy facility owner or its assigns must provide this training within three (3) months of commercial operation.
- (4) Notification letters must be sent by the applicant via first-class mail to all property owners within five-hundred (500) feet of the property(s). A copy of the notification letter must be provided to the Department of Technical and Community Services. A notification letter must be sent at least fifteen (15) days prior to the public hearing with the Planning Commission and again prior to the public hearing with the County Commissioners. At a minimum, the notification letter must contain the following:
 - i. A description of the project proposal including the number of acreage and the generating capacity of the facility;
 - ii. The name of the project, the project owner, and the property owner;
 - iii. The time, date, and location of the public hearing;
 - iv. A means to contact the project owner.

h. Bulk Regulations.

- (1) Utility scale solar energy facilities must be setback seventy-five (75) feet from adjacent property lines. Setback requirements may be waived for an adjacent parcel which is intended to be developed with utility scale solar and is included in the same application package.
- (2) New substations or connector stations, inverters, and transformers must be setback six-hundred (600) feet or more from existing dwellings, schools, churches, public right-of-ways, and subdivisions of ten (10) or more improved lots.
- (3) All components of a utility scale solar energy facility including underground wiring must be setback at least one-hundred (100) feet from a cemetery or graveyard.

i. Visual Standards.

(1) Visual Shield.

- i. A full visual shield must be provided on all sides of the solar energy facility including areas around any new substation or connector stations. A combination of vegetation, fencing, berms, or other materials may be used in accomplishing this standard. If vegetation is utilized to meet this standard, the visual shield must be one-hundred (100%) percent opaque within five (5) years from the start of construction, and must reach a height of at least eight (8) feet. Existing on-site vegetation, fencing, berms, or other materials that effectively serve as a visual shield may be considered to meet this standard. Creativity is encouraged.

(2) Visual Impact of Appurtenances.

- i. Furthermore, it is intended that inverters, transformers, and any other appurtenances associated with the solar panel arrays visually blend with the adjacent parcel(s) and be as unobtrusive as possible. This may include naturally colored casing (green, brown, etc.) and/or a vegetative buffer.

(3) Landscaping, Turf.

- i. Low growth grass consisting of native and/or salt tolerant species is required. Pollinator friendly habitat or areas for animal husbandry may be created, however the grounds surrounding and within the facility must be kept in a reasonable state and height at all times.

(4) Landscaping, Plantings.

- i. If landscaping is proposed to meet the visual shield standard, solar energy facility owners are encouraged to plant at the beginning of construction. Care should be given to the timing and placement of vegetation on-site.
- ii. No more than 50% non-native species may be used.
- iii. At least one (1) row of evergreen plant materials including trees and shrubs reaching a height of at least eight (8) feet within five (5) years is required if vegetation is used to meet the visual shield standard.
- iv. Vegetation existing on the parcel(s) may be used to meet the visual buffer requirements if it is determined by the Department of Technical and Community Services that it is sufficient to meet the requirement. The vegetation to be retained for this purpose must be shown on the site plan.

(5) Fencing.

- i. Fencing is not required but may be necessary for security. If fencing is used, the applicant(s) is encouraged to utilize alternative and innovative means of facility protection and visual shielding. This could include berms and/or agriculturally friendly fencing. Fences may not exceed eight (8) feet in height.

(6) Glare.

- i. In the event that glare is identified by the Department of Technical and Community Services, the owner of the solar energy facility, or its assigns, must address the concerns within two (2) months of identification. If new vegetation

is proposed to address a glare concern, and there is a seasonal issue, the owner of the solar energy facility, or its assigns, may have an extension of time to address the concern up to six (6) months after glare identified as a concern by the Department of Technical and Community Services.

(7) Solar Panels.

- i. Solar panels that visually appear to be broken must be replaced or removed within forty-five (45) days of identification by the Department of Technical and Community Services.

(8) Signage.

- i. Signage is required for each property developed that notifies the public of the facility and a means to contact the facility owner for complaints. In the event that the contact information is no longer applicable, new signage with up-to-date contact information is required.

j. Decommissioning.

- (1) A decommissioning plan is required to be submitted and approved by the County prior to the application for a building permit. Amendments to the plan prior to decommissioning must also be approved by the County.
- (2) Decommissioning by the solar energy facility owner or its assigns must begin within three (3) months of any of the following conditions unless a plan for its continuing use has been provided and approved by the County:
 - i. If the generating capacity falls below five (5%) percent of the initial generating capacity at installation;
 - ii. The solar energy facility has been damaged to such an extent that the facility will not be replaced or repaired. An example of this would be after a natural disaster.
 - iii. Upon the abandonment of the facility by the utility scale solar energy facility owner or its assigns as determined by the Department of Technical and Community Services.
- (3) Decommissioning must be completed within one (1) year once begun unless being conducted by the County.
- (4) If a partial decommissioning occurs, a new decommissioning plan and associated cost estimates must be prepared.
- (5) Following decommissioning, the Department of Technical and Community Services must perform an inspection of the property(s) to determine adequacy of the decommissioning and adherence to the decommissioning plan before any financial surety will be released.
- (6) Decommissioning plan elements must include, but are not limited to:
 - i. Decommissioning cost estimates;
 - ii. Removal of all above ground structures including, but not limited to: solar panel arrays, inverters and transformers, concrete pads, internal roads materials, fencing, and other debris. Landscaping must be removed, unless a signed

written statement is provided by the property owner(s) stating otherwise, with the exception of land that falls in a Chesapeake Bay Critical Area;

- iii. Removal of underground wiring and other structures;
 - iv. A plan for decommissioned material that includes reclamation, salvage, recycling, and disposal;
 - v. Estimates for the amount of materials to be salvaged along with a contingency plan in the event that the local salvage market is inundated;
 - vi. Restoration of the property(s) to a similar or better condition than at the time of installation. This may include reseeding, tilling, or reforestation.
- (7) A decommissioning cost estimate must accompany the decommissioning plan and be prepared by a Maryland licensed engineer at the cost of the facility owner(s). The decommissioning cost estimate must be updated every ten (10) years by a Maryland licensed engineer at the cost of the facility owner(s) and submitted to the Department of Technical and Community Services. Prior to decommissioning the facility, a cost estimate must be prepared by a Maryland licensed engineer regardless of the amount of time that has passed since the prior cost estimate. The County may prepare its own decommissioning cost estimate with the cost to be borne by the owner(s) of the facility.
- (8) If the facility has continued in its use after a period of thirty (30) years, either by 're-racking' or installing newer systems or technologies, a revised decommissioning plan and accompanying financial surety must be submitted to include changes to the facility.
- (9) No more than eighty (80%) percent of the reclamation or salvage value may be used in determining a financial surety. Twenty (20%) percent of the cost of decommissioning must be provided to the County in a form approved by the County prior to commercial operation. At the time of decommissioning, if the reclamation or salvage value exceeds the costs to decommission as determined by a Maryland licensed engineer, the financial surety will be released once decommissioning has been completed and approved by the County.

7.6 Growth Allocation Floating District (GA). Procedures for review and approval of the Growth Allocation Floating Zone District are as provided for in the Somerset County Critical Area Ordinance.

(Staff recommends the removal of the Big Annemessex River Watershed Overlay District (BAO) as its regulations are covered by other environmental laws that have been passed since the original adoption of the BAO District.)

6.16 BAO Big Annemessex River Watershed Overlay District. (hereafter referred to as the "Big Annemessex Overlay District")

a. Purposes.

- 1. ~~The Big Annemessex River Non-tidal Wetlands Watershed Management Plan (hereafter referred to as the "Big Annemessex Plan") was prepared to serve as the basis for State~~

~~non-tidal wetland permitting decisions and approval of mitigation plans and sites in the watershed by the Maryland Department of the Environment (“MDE”).~~

- ~~2. MDE, the Corps of Engineers (“COE”) and Somerset County have agreed to a joint application procedure to facilitate and streamline review and approval of non-tidal wetland permitting within the Big Annemessex Watershed. MDE and COE will utilize the County’s development application and permitting requirements and procedures for a determination of application completeness and authorization to proceed provided the County approving authority finds that the proposed development project is consistent with the Big Annemessex Plan.~~
- ~~3. Development projects located in the designated growth areas, such as the Marion, Hopewell, Westover, Kingston, Manokin, and Fairmount growth areas, as shown in the Big Annemessex Plan, are eligible for this joint application process provided the County makes findings that the proposed development is consistent with Big Annemessex Plan.~~
- ~~4. This section establishes:~~
 - ~~(a) Additional information requirements for proposed development projects requiring either Board of Appeals, site plan, subdivision, building permit approval or approval of a zoning map amendment that are wholly or partially located in the Big Annemessex District; and~~
 - ~~(b) Review criteria for determining if a proposed development project is consistent with the Big Annemessex Plan.~~

~~b. Big Annemessex District – Applicability.~~

- ~~1. The provisions of this subsection shall apply to all land and water areas included in the Big Annemessex Plan as adopted by the County Commissioners on the 16th of May, 1995 and as certified by the MDE on August 15, 1995.~~
- ~~2. The provisions of this subsection may be used under the following conditions:~~
 - ~~(a) The proposed development requires Board of Appeals, site plan, subdivision, building permit approval or approval of a zoning map amendment; and~~
 - ~~(b) The applicant wishes to be considered under the joint permitting process established between MDE, COE and Somerset County.~~
 - ~~(c) Proposed development projects or activities that would result in the disturbance of less than 5,000 square feet land or less than 5,000 square feet of non-tidal wetlands that qualify for a letter of exemption under the provisions of COMAR 08.05.04 parts .03J and .09 are exempted from these provisions.~~
- ~~3. No proposed project may be considered for approval under the joint permitting process unless the appropriate approving authority finds that the proposed development or activity is consistent with the Big Annemessex Plan.~~
- ~~4. Proposed development projects not complying with these provisions shall be subject to the current and normal State/federal non-tidal wetland permit review process.~~

~~c. Big Annemessex District – Additional Submittal Information.~~

- ~~1. Site Plan. The following additional information shall accompany applications for site plan approval:~~
 - ~~(a) The area of non-tidal wetlands on the site (as shown on the wetland delineation prepared by MDE and COE) and wetland buffer boundaries.~~
 - ~~(b) The area of proposed non-tidal wetland and wetland buffer impact calculations.~~
 - ~~(c) The final site plan shall show any building envelopes designated for the purpose of avoiding or minimizing impacts to non-tidal wetlands.~~

- ~~2. Subdivision. The following additional information shall accompany applications for subdivision plat approval:~~
 - ~~(a) Preliminary plats for subdivision shall show non-tidal wetland boundaries (as shown on the wetland delineation prepared by MDE and COE), wetland buffers and expanded buffers in relation to proposed structures, activities and any other proposed land disturbance.~~
 - ~~(b) Preliminary plats for subdivision shall include the area of proposed non-tidal wetland and wetland buffer impact calculations.~~
 - ~~(c) Final subdivision plats shall show all building envelopes that have been designated for the purpose of avoiding or minimizing impacts to non-tidal wetlands.~~
- ~~3. Special Exception. The following additional information shall accompany applications for special exception approval:~~
 - ~~(a) The approximate location of non-tidal wetland boundaries (as shown on the wetland delineation prepared by MDE and COE) and wetland buffers.~~
 - ~~(b) The area of proposed non-tidal wetland and wetland buffer impact calculations.~~
- ~~d. BAO District - Permits and Individual Lots.~~
 - ~~1. Application for building permits on existing lots shall show the approximate location of non-tidal wetland boundaries (as shown on the wetland delineation prepared by MDE and COE).~~
 - ~~2. For individual permits on existing lots, the Department must determine that the building permit application is consistent with the Big Annemessex Plan and/or that the proposed development project is consistent with any plans or subdivision requirements previously approved by MDE, COE and /or Somerset County, if applicable.~~
 - ~~3. At the time of building permit application the Director of the Department of Technical and Community Services or the Zoning Inspector is authorized to grant an administrative variance that permits a reduction of any minimum yard requirements contained in Section 5, subsection 13 when such administrative variance would result in a minimization or avoidance of adverse impacts to non-tidal wetlands. Any yard reduction shall be the minimum required to avoid impacts and in no case shall result in a minimum yard of less than 10 feet.~~
- ~~e. BAO Review Criteria. In the case of site plan and subdivision applications, the Approving Authority will determine if a project is consistent with the Big Annemessex Plan using the following criteria:~~
 - ~~1. Project location~~
 - ~~(a) Inside a designated growth area in the Big Annemessex River watershed; or~~
 - ~~(b) Outside of a designated growth area in the watershed if a wetland delineation has been prepared by MDE and the COE.~~
 - ~~2. The value rating of the non-tidal wetlands as determined in the Big Annemessex Plan;~~
 - ~~3. The spatial requirements of the proposed project;~~
 - ~~4. The location of any existing structural or natural features that may dictate the placement or configuration of the proposed project;~~
 - ~~5. The purpose of the proposed project, and how the purpose relates to placement, configuration or density of the proposed project; and~~

~~6. Sensitivity of the site design to non-tidal wetlands.~~

~~f. BAO Approving Authority.~~

- ~~1. Upon finding that the applicant has satisfied the criteria in e. above, to the greatest and practicable degree, the Technical Advisory Committee may determine that a proposed development project requiring site plan or subdivision approval is consistent with the Big Annemessex Plan.~~
- ~~2. The Board of Zoning Appeals is the approving authority for development projects which require a variance or special exception, with the exception of the administrative variance allowed in “d(3)” above. Variances and Special Exceptions approved by the Board of Zoning Appeals shall be conditional, subject to a finding by the Technical Advisory Committee that the project meets the criteria in “d.” above, to the greatest and practicable degree, and is consistent with the Big Annemessex Plan.~~
- ~~3. Upon finding that the applicant has satisfied the criteria in d. above, to the greatest and practicable degree, the County Planning Commission may determine that a proposed zoning amendment is consistent with the Big Annemessex Plan.~~

~~g. BAO Definitions. For the purposes of the BAO District provisions, the following definitions shall apply:~~

~~Adverse Impact means any diminishment of non-tidal wetland acreage or function.~~

~~Avoid means to refrain from conducting an activity that may adversely impact a non-tidal wetland.~~

~~Building Envelope means the portion of a lot or site that may be disturbed for development.~~

~~Enhancement means actions performed to provide additional protection to, or create or improve the functions of, a non-tidal wetland, or other aquatic sites or resources.~~

~~Minimize means to reduce the adverse impacts to non-tidal wetlands to the greatest practicable and reasonable degree.~~

~~Mitigation means creation, restoration, or enhancement of non-tidal wetlands, that were or will be lost due to regulated or agriculture activities.~~

- ~~i. Mitigation. Proposed development projects located in the Big Annemessex District, including projects not in a designated growth area, may be eligible for mitigation and enhancement offsets for unavoidable activities that may adversely impact a non-tidal wetland provided any proposed mitigation is consistent with the mitigation strategies outlined in the Big Annemessex Plan.~~

7.7 Procedure for Floating Zone District Approval. (NEW Section – This is standard ordinance language)

- a. Application. Application for a floating zone district approval is required to be submitted to the Department of Technical and Community Services. Applications must include:
- (1) A written petition for location of a floating zone district and approval of a development plan, signed by the property(s) owners and contract purchasers, if any, of the property that is the subject of the petition.
 - (2) A narrative describing the following:
 - i. Statement of present and proposed ownership of all land within the development;
 - ii. Overall objectives of the proposed development plan and a statement of how the proposed development concept corresponds to and complies with the purpose of the district;
 - iii. The method of providing sewer and water service and other utilities, such as, but not limited to: telephone, gas, and electric services, if applicable.
 - iv. The method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;
 - v. A general description of architectural and landscape elements, including graphic representations; and
 - vi. If the applicant desires to develop the property in phases, a preliminary phasing plan indicating:
 - (a) The phase(s) in which the project will be developed, including the approximate land area, uses, densities, and public facilities to be developed during each phase.
 - (b) If different land use types are to be included within the development plan, the plan must include the mix of uses anticipated to be built in each phase.
- b. Public Hearings. A public hearing shall be held on requests for a floating zone district designation by the Planning Commission and Board of County Commissioners, respectively. The public hearings must be advertised in accordance with the Land Use Article, Annotated Code of Maryland. Adjacent property owners are required to be notified by the applicant via certified mail. Certified mail receipts must be received by the Department of Technical and Community Services at least five (5) days prior to the public hearing.

SECTION-6 8
GENERAL REGULATIONS

8.1 Off-Road Street Loading.

- a. In any district where there is a building or part thereof, which has a gross floor area of ~~ten-thousand~~ (10,000) square feet or more and which is to be occupied by manufacturing, storage, warehouse, goods display or sales, hotel, hospital, or other uses similarly requiring the receipt and distribution by vehicles of material or merchandise, there ~~shall~~ **must** be provided and maintained on the same lot with ~~such~~ the building or use, at least one (1) additional ~~such~~ loading space for each ~~twenty-thousand~~ (20,000) square feet of gross floor area or major fraction thereof.
- b. Each loading space ~~shall~~ **must** be not less than ten (10) feet in width ~~forty-five~~ (45) feet in length and ~~fourteen~~ (14) feet in height. ~~Such~~ Loading spaces may occupy all or any part of any required yard or court except a front yard.
- c. ~~No such space shall be located closer than 50 feet within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence or other kind of opaque fence, not less than 6 feet in height. Nonresidential off-street loading spaces must not be located closer than fifteen (15) feet to street lines and six (6) feet to abutting residential lot lines.~~

8.2 Off-Road Street Parking.

- a. In all districts, space for parking and storage of vehicles shall be provided. An off-~~road~~ street parking space shall comprise a minimum width of eight and a half (8.5) feet and a minimum length of ~~eighteen~~ (18) feet, in addition to necessary maneuvering space. If parking areas are not paved and lined, then a minimum width of ~~ten~~ (10) feet shall apply per space. Space for maneuvering incidental to parking or exiting parking space ~~shall~~ **must** not encroach upon any public way. Every off-~~road~~ street parking area ~~shall~~ **must** be accessible from a public way. Parking areas ~~shall~~ **must** have an all-weather surface which may include pervious materials.
- b. Number of Spaces. Each use that is newly developed, enlarged, significantly changed in type or increased in number of establishments ~~shall~~ **must** provide and maintain off-street parking spaces in accordance with the following table. In the case of any building or use which is not specifically mentioned herein, the provisions for a use which is mentioned and to which said use is similar shall apply.
- c. Flexibility in Administration. **(NEW)** Somerset County recognizes that due to the uniqueness of any given development, the inflexible application of the parking standards set forth herein may result in a development with inadequate parking or parking spaces far in excess of its needs. Alternative off-street parking solutions may be accepted if the applicant can demonstrate that the proposal better reflects local conditions and needs.
 - (1) Without limiting the generality of the foregoing, the Planning Commission may allow deviations from the parking requirements set forth herein.
 - (2) Whenever the Planning Commission allows or requires a deviation from the parking requirements, it shall enter on the face of the zoning certificate and/or site plan the

parking requirement that it imposes and the reasons for allowing or requiring the deviation.

OFF-STREET PARKING REQUIREMENTS

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS 1 OFF-STREET PARKING SPACE FOR EACH:
A. RESIDENTIAL USES:		
1. Dwelling Unit, other than types listed separately in this table.	2 per dwelling unit*, except 1 per apartment that only includes one (1) bedroom or is an efficiency unit. *Note: If desired, one 1 space may be in a garage and one 1 space in a driveway.	
2. Home Occupation	None	Non-Resident Employee
3. Housing Permanently Restricted to Persons 55 Years and Older and/or the Physically Handicapped	1 per dwelling/ rental unit, except 0.4 per dwelling/ rental unit if evidence is presented that the non-physically handicapped persons will clearly primarily be over 70 years old	Non-Resident Employee
4. Boarding House	1 per rental unit or bed for adult, whichever is greater	Non-Resident Employee
5. Group Domiciliary Care Home	See Section 5.7(c)	Employee
B. INSTITUTIONAL USES:		
1. Place of Worship or Church	1 per 4 seats in room of largest capacity	Employee
2. Hospital	1 per 2 beds	1.2 Employees
3. Nursing Home	1 per 6 beds	1.2 Employees
4. Personal Care Home	1 per 4 beds	1.2 Employees
5. Day Care Center	1 per 10 children, with spaces designed for safe and convenient drop-off and pick-up	1.2 Employees
6. School, Primary or Secondary	1 per 4 students aged 16 or older	Employee
7. Utility Facility	1 per vehicle routinely needed to service facility	
8. College, University or Trade School	1 per 1.5 students not living on campus who attend class at peak times (plus required spaces for on-campus housing)	Employee
9. Library, Community Center or Cultural Center or Museum	1 per 4 seats (or 1 per 250 sq. ft. of floor area accessible to patrons and/or users if seats are not typically provided)	Employee

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS 1 OFF-STREET PARKING SPACE FOR EACH:
10. Treatment Center	1 per 2 residents aged 16 years or older plus 1 per non-resident intended to be treated on-site at peak times	Non-Resident Employee
11. Swimming Pool, Non-Household	1 per 40 sq. ft. of water surface, other than wading pools	Employee
C. COMMERCIAL USES:		
All commercial uses, as applicable, shall must provide additional parking or storage needed for maximum number of vehicles stored, displayed, or based at the lot at any point in time. These additional spaces are not required to meet the stall size and parking aisle width requirements of this Ordinance.		
1. Auto Service Station or Repair Garage	5 per repair/ service bay and 1/4 per fuel nozzle with such spaces separated from access ways to pumps	Employee; plus any parking needed for a convenience store under “retail sales”
2. Auto, Boat, Recreational Vehicle or Manufactured Home Sales	1 per 15 vehicles, boats, RVs or homes displayed	Employee
3. Bed and Breakfast Use	1 per rental unit plus the 2 per dwelling unit	Non-resident employee
4. Bowling Alley	2 per lane plus 2 per pool table	1.2 Employees
5. Car Wash	2 per washing lane or stall, which may be located in drying or vacuuming areas	1.2 Employees
6. Farm Brewery, Distillery or Winery	1 per every 2 visitors at maximum capacity	Non-Familial Employee
7. Financial Institution (includes bank)	1 per 200 sq. ft. of floor area accessible to customers, plus 3 convenient spaces for each automatic banking transaction machine	Employee
8. Funeral Home	1 per 5 seats in rooms intended to be in use at one time for visitors	Employee
9. Miniature Golf	2 per hole	1.2 Employees
10. Haircutting/ Hairstyling	2 per customer seat used for haircutting, hair styling, hair washing, manicuring or similar work	1.2 Employees
11. Hotel or Motel	1 per rental unit plus 1 per 4 seats in any meeting room (plus any required by any restaurant)	1.2 Employees
12. Laundromat	1 per 3 washing machines	On-site Employee
13. Offices or clinic, Medical/dental	5 per physician and 4 per dentist	1.2 Employees
14. Offices, other than above	1 per 300 sq. ft. of total floor area	

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS 1 OFF-STREET PARKING SPACE FOR EACH:
15. Personal Service Use, other than haircutting/hairstyling (min. of 2 per establishment)	1 per 200 sq. ft. of floor area accessible to customers	Employee
16. Indoor Recreation (other than bowling alley), Membership Club or Exercise Club	1 per 4 persons of maximum capacity of all facilities	Employee
17. Outdoor Recreation (other than uses specifically listed in this table)	1 per 3 persons of capacity (50% may be on grass overflow areas with major driveways in gravel)	1.2 Employees
18. Restaurant	1 per 4 seats	1.2 Employees
19. Retail Sales (other than Types separately listed)	1 per 200 sq. ft. of floor area of rooms accessible to customers.	
20. Retail Sales of Only Furniture, Lumber, Carpeting, Bedding or Floor Covering	1 per 400 sq. ft. of floor area accessible to customers	
21. Tavern	1 per 30 sq. ft. of total floor area	1.2 Employees
22. Theater or Auditorium	1 per 4 seats, one-half of which may be met by convenient parking shared with other business uses on the same lot that are typically not routinely open beyond 9:30 p.m.	1.2 Employees
23. Trade/Hobby School	1 per 2 students on-site during peak use	1.2 Employee
24. Veterinarian Office	5 per veterinarian	1.2 Employee
<u>D. INDUSTRIAL USES:</u>		
All industrial uses (including warehousing, distribution, and manufacturing)	In addition to parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time, which spaces are not required to meet the stall size and aisle width requirements of this Ordinance 1 per 1.2 employee, based upon the maximum number of employees on-site at peak period of times	1 visitor space for every 10 managers on the site
Self-Storage Development	1 per 20 storage units	1.2 Employee

c. Aisles in Parking Areas.

- (1) Each aisle providing for one-way traffic to access parking stalls shall have the following minimum width:

Angle of Parking	Minimum Aisle Width
Parallel or 30 degrees	12 feet
45 degrees	14 feet
60 degrees	18 feet
90 degrees	20 feet

- (2) Each aisle providing access to stalls for two-way traffic shall must be a minimum of twenty-four (24) feet in width, except a width of twenty (20) feet may be allowed for parking areas with spaces that are parallel or involve an angle of parking of forty-five (45) degrees or less.

d. Handicapped Parking.

- (1) Number of Spaces. Any lot including four (4) or more off-street parking spaces shall must include a minimum of one (1) handicapped space. The following number of handicapped spaces shall must be provided, unless a revised regulation is officially established under the Federal Americans with Disabilities Act:

TOTAL NO. OF PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./PERCENT OF HANDICAPPED PARKING SPACES
4 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1,000	2% of required number of spaces
1,001 or more	2% plus 1% of required number of spaces over 1,000

- (2) Location. Handicapped parking spaces shall must be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall must be provided as needed to provide access from the handicapped spaces.
- (3) Minimum Size. Each required handicapped parking space shall must be eight (8) by eighteen (18) feet. In addition, each space shall must be adjacent to a five (5) feet foot wide access aisle. Such Access aisles may be shared by two (2) handicapped spaces

- by being placed between them. However, one (1) out of every eight (8) required handicapped parking spaces ~~shall~~ must have an adjacent access aisle of eight (8) feet width instead of five (5) feet.
- (4) Slope. Handicapped parking spaces ~~shall~~ must be located in areas of less than six (6%) percent slope in any direction.
 - (5) Marking. ~~All required handicapped spaces shall be well marked by clearly visible signs or pavement markings. Blue paint is recommended.~~ Accessible parking spaces must be signed in compliance with applicable State law and must identify the current fine amounts for violations.
 - (6) Paving. Handicapped parking spaces and adjacent areas needed to access them with a wheelchair shall be covered with a smooth surface that is usable with a wheelchair.
- e. ~~Except in the case of a dwelling, no parking area shall be less than 1,000 square feet in area.~~
(The Planning Commission may grant a waiver to this depending on site specifics – See section 8.2(c))
- f. **(Planning Commission – Landscaping is covered more thoroughly under Section 8.9 which includes the screening of parking areas.)**
Screening of Parking. ~~Parking areas for more than 5 vehicles shall be effectively screened on each side which adjoins or is faced by any R1, R2, R3 or MRC District, by a brick or decorative masonry wall, mostly solid fence constructed of wood or material with a similar appearance, or continuous row of evergreen plants.~~
- (1) ~~Such screen shall have an initial height of 4 feet, and any wall or fence shall have a maximum height of 8 feet.~~
 - (2) ~~Such screen shall be maintained in good condition without any advertising thereon.~~
 - (3) ~~If plants die that are necessary to maintain a complete visual screen, such plants shall be replaced by the current owner of the property.~~
 - (4) ~~No part of any parking space shall be closer than 5 feet to any road line.~~
 - (5) ~~Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises in any residential district, and from public roads.~~

8.3 Parking of Recreational Vehicles and Equipment. (NEW Section)

- a. Not more than two (2) recreational vehicles and two (2) pieces of recreational equipment or utility trailers may be parked or stored in the rear or side yard of any lot in R-1, R-2, or R-3 zoning districts unless approved by the Zoning Administrator. For the purposes of this provision, one (1) piece of recreational equipment is equal to a single non-motor vehicle with no more than one (1) watercraft, personal watercrafts or specialty prop-crafts. Recreational vehicles, recreational equipment, and utility trailers may not be stored in the required front yard setbacks.
- b. Notwithstanding the regulations of Section (a) above, additional recreational vehicles, recreational equipment, and utility trailers may be temporarily parked in the rear or side yard, in the front yard if stored on a driveway, or on an adjacent street provided that the

Zoning Administrator is given prior notice of the dates for ~~such~~ temporary parking. For the purposes of this provision, temporary parking is the parking of vehicles or equipment during any period not exceeding ten (10) days in aggregate (which may or may not be consecutive) within any period of thirty (30) consecutive days.

- c. Recreational vehicles, recreational equipment, and utility trailers stored or parked in residential zoning districts must be owned by the owner or occupant of the subject property.
- d. The recreational vehicle, recreational equipment, or utility trailer must be properly licensed.
- e. No recreational vehicle, equipment, or utility trailer may have its wheels removed or be affixed to the ground so as to prevent its ready removal.
- f. No parked or stored recreational vehicle may be used for living, sleeping or business purposes.

8.4 Essential Services. (Previously Section 6.3) It is the purpose of this section to recognize that utility installations are necessary to service various areas of the county provided that they are consistent with the character of the area and in accordance with minimum standards designed to protect surrounding properties.

- a. The term Essential Services shall include water lines, sewer lines, natural gas lines, propane gas, electric lines or poles, telephone lines and poles, underground conduits, including ~~such~~ incidental equipment which is located on poles or in underground conduits or vaults. None of the above shall be subject to lot area or setback requirements, yard or height limitations, or corner obstruction provisions. All of the above mentioned Essential Services shall be permitted in any district as an inherent right.
- b. Essential Service structures including tandem poles, and tower structures, are permitted in any district and not subject to any lot, height, yard, landscaping, or area regulations. Relay stations and substations are permitted in any district, provided that they conform to all setbacks or yards as required and all yards are landscaped with grass cover, trees, or shrubs. All site plans shall be submitted to the Planning Commission for review and approval.
- c. Essential Service buildings shall include administration, storage, construction, or maintenance buildings or yards, sewage treatment or disposal plants, or water treatment plants developed in accordance with all lot area, setback, yard, and height regulations as required for the principal building in the district. ~~Such~~ Essential service buildings shall be permitted by-right in the I-2 and I-1 districts and by special exception in all other districts.
 - (1) Whenever any essential service building or installation is constructed in any conservation, agricultural, residential, MRC district, or the commercial districts, all yard areas as required by the ordinance shall be landscaped with grass cover, trees, and shrubs.
- d. Nothing in this section shall apply to any transmission line above 69,000 volts or generating station governed by the regulations of the Maryland Public Services Commission.

6.4 Visibility at Intersections. (Moved to Bulk Regulations – Section 6.7)

8.5 Waterfront Development Requirements. ~~(Previously section 6.7)~~ Except where otherwise specifically stated in this Ordinance, the following shall control the use and development of land abutting upon a manmade or natural waterway: only land situated and lying above the mean high water line shall be considered when determining the area of a lot.

- a. ~~The required front, side, or rear building line for a principal structure shall be measured from the mean high water line, except where said principal structure is a pier, wharf, landing or boathouse, and except in such other cases as determined by the Board of Zoning Appeals are not detrimental to the health, safety, and general welfare of the community. See Critical Area Ordinance.~~ **(The Critical Area Ordinance has more stringent regulations in this instance, which needs to be adhered to in any event).**

8.6 On-site Signs. For the purpose of this Ordinance, the following on-site sign regulations are established to assure compatibility of on-site structures with surrounding land use both existing and proposed, to conserve property values in all districts, to promote the safety of the driving public, and to protect the natural scenic beauty of the county. No sign shall be permitted except signs specifically authorized by this Section, or official signs posted by the County, the State, or Federal agencies.

- a. Signs for Allowed Principal Non-Residential Uses in Districts Other than C-1, C-2, I-1 and I-2 Districts. (Including but not limited to signs for places of worship and schools).

- (1) One (1) freestanding sign shall be permitted with a maximum sign area of ~~thirty-five~~ (35) square feet on each of two (2) sides, and a maximum total height above the ground of eight (8) feet.
- (2) Wall-mounted signs ~~shall be~~ are permitted provided that they do not cover more than five (5%) percent of the vertical square footage of the building wall to which the sign is attached.
- (3) Only one (1) electronic sign shall be allowed per parcel or lot, meeting the following criteria:
 - i. A Special Exception shall be obtained from the Board of Zoning Appeals, in accordance with **Section 11.2.**
 - ii. The sign ~~shall~~ must be programmed so that a message or image on the sign changes no more than once every eight (8) seconds.
 - iii. The maximum duration of the transition of the electronic image or message change shall be no more than two (2) seconds.
 - iv. Maximum brightness levels shall not exceed 7,500 nits during daylight hours and 500 nits between sunset and sunrise.
 - v. Sound ~~shall be~~ is prohibited.
 - vi. The sign ~~shall~~ must be equipped with an automatic dimming feature.
 - vii. Limited animation may be permitted only at the discretion of the Director of Technical and Community Services.

- b. Signs for Allowed Principal Uses in the C-1, C-2, I-1 and I-2 Districts.

- (1) One (1) or two (2) freestanding signs shall be permitted with a maximum total sign area of ~~eighty~~ (80) square feet on each of two (2) sides, and a maximum total height above the ground of ~~twenty-five~~ (25) feet. For example, one (1) sign may include fifty

- (50) square feet on each of two (2) sides, and the second sign may include thirty (30) square feet on each of two (2) sides. ~~Such~~ The maximum sign area may be increased to two-hundred (200) square feet if a lot includes ten (10) or more acres or five (5) or more separate commercial establishments.
- (2) Wall-mounted signs shall be permitted provided they do not cover more than ten (10%) percent of the vertical square footage of the building wall to which the sign is attached, or two-hundred (200) square feet, whichever is smaller. Temporary non-illuminated signs placed in the window of a commercial business are not regulated by this Ordinance.
- (3) Only one (1) electronic sign shall be allowed per parcel or lot, meeting the following criteria:
- The sign shall be programmed so that a message or image on the sign changes no more than once every eight (8) seconds.
 - The maximum duration of the transition of the electronic image or message change shall be no more than two (2) seconds.
 - Maximum brightness levels shall not exceed 7,500 nits during daylight hours and 500 nits between sunset and sunrise.
 - Sound ~~shall be~~ is prohibited.
 - The sign ~~shall~~ must be equipped with an automatic dimming feature.
 - Limited animation may be permitted only at the discretion of the Director of Technical and Community Services.
- c. Sign Setback. All freestanding signs ~~shall~~ must be setback a minimum of ten (10) feet from any street right-of-way and from any residential lot.
- d. Sign Height. No sign shall extend above the height of the structural roof of the building to which the sign is attached.
- e. Measurement of Wall Signs. In the event a sign is painted or applied to the front or face of a building, the area of the sign shall be taken as the area required to circumscribe all letters and devices.
- f. In any district in which on-site signs are permitted, the following restrictions ~~shall~~ apply:
- (1) No flashing, moving, or strobe signs ~~shall be~~ is permitted except as may be permitted under **Section 8.6(a)(3) and 8.6(b)(3)**.
 - (2) No sign shall cause glare or nuisance to contiguous properties or motorists.
- g. All on-site and off-site signs ~~shall~~ must be maintained in a good state of repair in accordance with the following provisions.
- (1) Painted on-site signs ~~shall~~ must be repainted a minimum of once every three (3) years.
 - (2) All braces, boards, clips, bolts, supporting frames and fasteners, ~~shall~~ must be kept free from deterioration, termites, rot, rust, or loosening.
 - (3) Repairs to damaged on-site signs ~~shall~~ must be completed within a thirty (30) day period after the date that damage occurred. All debris ~~shall~~ must be removed and disposed of properly.

- h. No sign attached to a building shall be permitted to extend more than eighteen (18) inches into a required yard.
- i. Portable Signs. Commercial advertising signs that are posted outdoors without being securely and permanently attached to the ground or a building shall be prohibited, except a portable sign of up to forty (40) square feet in sign area on each of two (2) sides may be permitted by the Zoning Inspector Administrator. Such The sign shall be only be allowed permitted as an accessory to a principal business or to advertise a charitable special event, and shall be not permitted to be visible more than thirty (30) days in any calendar year.
 - (1) A permit shall be for a portable sign is required, and The Zoning Inspector Administrator may require the posting of a deposit of up to three-hundred dollars (\$300) to ensure the proper removal of the sign within the time limit. Such Signs shall are not permitted to flash and shall not obstruct safe sight distances for traffic.

8.7 Off-Site Signs (such as billboards). The following off-site regulations are established to assure compatibility of off-site structures with surrounding land use both existing and proposed, to conserve property values in all districts, to promote the safety of the driving public, and to protect the natural scenic beauty of the County. No off-site signs shall be are permitted except as authorized by this Section.

- a. This ordinance shall not regulate signs officially authorized by the State Highway Administration, including official signs directing visitors to regional attractions or notifying motorists of available services.
- b. An off-site sign shall be only be permitted in a C-1, C-2, I-1, or I-2 district. Such sign shall only be permitted and if it conforms to the following minimum standards:
 - (1) It shall must not be closer than five-hundred (500) feet to any other off-site sign.
 - (2) It shall must be set back from any right-of-way a distance equal to one-half (1/2) the required setback distance for a principal structure.
 - (3) No off-site sign shall is permitted to be erected within two-hundred fifty (250) feet of any dwelling or residential district.
 - (4) No flashing advertising shall be is permitted and all lighted off-site signs shall must be indirectly illuminated and shall not cause a glare or nuisance to contiguous properties.
 - (5) No off-site sign shall is permitted to exceed four-hundred and eighty (480) square feet on each sign surface, and not more than one (1) sign surface shall is permitted to be visible from any point.
 - (6) No off-site sign shall is permitted to exceed thirty (30) feet in height as measured from grade.
 - (7) No off-site sign surface shall is permitted to exceed a vertical dimension of fifteen (15) feet.
 - (8) No off-site sign shall is be permitted to extend into any road, railroad or power line right of way.

- (9) Where permitted, off-site signs ~~shall must be either~~ single signs, back to back signs, or 'v' signs.
- (10) An electronic sign may be permitted, provided the following criteria are met:
- The sign ~~shall must be~~ programmed so that a message or image on the sign changes no more than once every eight (8) seconds.
 - The maximum duration of the transition of the electronic image or message change shall be no more than two (2) seconds.
 - Maximum brightness levels shall not exceed 7,500 nits during daylight hours and 500 nits between sunset and sunrise.
 - Sound ~~shall be~~ is prohibited.
 - The sign ~~shall must be~~ equipped with an automatic dimming feature.
 - Limited animation may be permitted only at the discretion of the Director of Technical and Community Services.
 - The minimum setback between electronic billboards shall be ~~one-thousand (1,000)~~ feet, measured from the closest point of each structure. A smaller setback may be permitted only with the approval of the Board of Zoning Appeals, in accordance with [Section 11.2](#).
- c. Off-site signs which may exist on the effective date of Ordinance which do not conform to the provisions set forth herein shall become legal ~~non-conforming~~ nonconforming off-site signs and subject to the following:
- (1) Any ~~non-conforming~~ nonconforming off-site sign which is completely destroyed or damaged more than fifty (50%) of its original size, shall not be rebuilt except in conformance to all requirements of this section.
- d. Maintenance. [Section 8.6\(g\)](#) above ~~shall~~ applies.

8.8 Permitted Signs in All Districts. The following signs are permitted (in any use district) without a permit:

- No more than two (2) signs advertising the sale, lease, or rental of the premises upon which the sign is located, with the total sign not exceeding ~~twelve (12)~~ square feet on a lot of less than three (3) acres in a residential district, and fifty (50) square feet in area in other cases. ~~Such S~~signs shall only be posted while the property is actively being offered, and ~~shall must be removed within ten (10) days after settlement or signing of a lease.~~
- Professional name plates ~~that shall must not exceed four (4) square feet in area.~~
- No more than two (2) signs denoting the name and address of the occupants of the premises, which signs shall not exceed a total of ~~nine (9)~~ square feet in area for all signs.
- No more than two (2) signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress, which sign ~~shall must not exceed twelve (12) square feet for a lot of less than three (3) acres in a residential district, and a total of one-hundred (100) square feet in area in other cases.~~
- Signs or bulletin boards customarily incidental to places of worship, libraries, museums, civic, social or fraternal clubs or societies, ~~which signs or bulletin boards shall must not exceed thirty-five (35) square feet in area.~~
- A sign advertising a real estate development or subdivision, or any special exception permitted in a residential district; ~~said sign must not to exceed twenty (20) square feet in~~

area and shall advertise only the name of the owner, trade names, products sold, and/or the business or activity conducted on the premises.

- g. Temporary political signs are allowed in all zones and shall must not exceed a maximum allowed size of four feet by eight feet (4' x 8'), be properly maintained, and must comply with setbacks restrictions of ten (10) feet from any street, right-of-way, or property line. Temporary political signs located in Non-Residential use properties only, shall must be removed within fifteen (15) days following the election or event to which they refer.
- h. Temporary signs (including sandwich signs, pennants, and streamers) indicating an event of public interest (such as fairs, carnivals, community gatherings, and other events of a similar nature) shall be is permitted only upon written approval by the Zoning Administrator. Such Ssigns shall must be removed within seven (7) days after the conclusion of the event.
- i. Such Ssigns that the County may specifically authorize be placed in the right-of-way of a street, such as directional signs of up to six (6) square feet each towards places of worship, schools and colleges.
- j. Routine signs of less than four (4) square feet each that provide directions such as "enter" and "exit" or which direct persons to public conveniences, such as pay telephones or which announce "no trespassing", "private road," or similar messages.

Screening and Buffer Areas. (See below for landscaping, fencing, and lighting provisions)

~~When a new principal commercial or industrial use or parking area of 5 or more parking spaces is proposed on a lot abutting a primarily residential lot within the AR, R 1, R 2, R 3 or MRC district, or where otherwise required by this Ordinance, screening and buffering shall be required meeting the following requirements, in compliance with a plan submitted by the applicant:~~

- ~~a. Such screening or buffer strips shall measure not less than 10 feet in width where required along a contiguous primarily residential lot. In no case shall a required screening or buffer strip be less than 4 feet wide.~~
- ~~b. The buffer strip shall be densely planted with shrubs or trees measuring not less than 4 feet high at the time of planting, and which are of a species, spacing and arrangement which can reasonably be expected to form a year-round dense screen not less than 6 feet high within 3 years. The plantings shall be primarily evergreen.~~
- ~~c. The specifications for such planting shall be submitted for review by the County and be filed with the approved plan for the use of such lot.~~
- ~~d. Required planting shall be properly maintained throughout the continuance of the use of the property. If plantings needed to complete the screen should die, they shall be replaced by the current owner of the property.~~
- ~~e. Where the Zoning Inspector determines that plant screening is not feasible or practical, a solid brick or stone wall or mostly solid fence or well landscaped earth berm that provides equivalent screening may be substituted for the required planting, provided the location and height would fulfill the requirements of this section.~~
- ~~f. No structure (including accessory structures), interior roads and driveways (except for necessary approximately perpendicular crossings), parking areas, storage areas, or active recreation facilities may be located in buffer strips. When plant screening is required, any fencing shall be on the non-residential side of the plantings.~~

- ~~g. Plant screening meeting the requirements of this section shall also be required to screen views of junk storage or similar outdoor storage from views from a public road or dwelling.~~
- ~~h. The screening requirements of this section shall not apply to routine accessory storage as part of a permitted agricultural use.~~
- ~~i. The plantings shall be setback from roads as necessary to avoid obstructing safe sight distances.~~
- ~~j. Any lighting used to illuminate any parking area shall be arranged to direct the light away from adjoining premises in any residential district, and shall not cause glare on public roads.~~

8.9 Landscaping Standards. (NEW Section Replacing ‘Screening and Buffer Areas’- above and ‘Screening of Parking’ – Section 8.2(f) – Recommended by consultant)

a. General Requirements.

- (1) All areas not devoted to buildings, structures, and related uses (including parking facilities) as required by this ordinance must be landscaped with a combination of grass or other ground cover and either trees or shrubs as provided herein.
- (2) All landscaped areas must be maintained in a suitable manner.
- (3) The total linear amount of property lines or perimeter of the development site of each lot must be used as a guide to compute the amount of plantings required.
- (4) Landscaping/screening buffers on commercial and industrial sites should be of sufficient width to allow incorporation of a berm.

b. Landscaping of Commercial, Institutional or Industrial Uses in the C-1 Commercial District. Lots with commercial, institutional, or industrial uses located in the C-1 District must meet the following landscaping requirements:

- (1) The following land areas, except for access-ways, must be landscaped with grass, trees, or shrubs:
 - i. Front: Five (5) feet in width abutting all property lines abutting a street;
 - ii. Side: Five (5) feet in width abutting all side property lines;
 - iii. Rear: Ten (10) feet in width abutting all rear property lines.
- (2) Abutting residential districts: a screening area of ten (10) feet in width consisting of landscaping and a solid decorative fence or natural evergreen plantings must be provided.

c. Landscaping of C-2 Commercial District. Lots located in the C-2 District must meet the following landscaping requirements:

- (1) The following land areas, except for access ways, must be landscaped:
 - i. Front: Fifteen (15) feet in width abutting all property lines abutting a street.
 - ii. Side: Five (5) feet in width abutting all side property lines.
 - iii. Rear: Ten (10) feet in width abutting all rear property lines.
- (2) Abutting residential districts: a screening area of ten (10) feet in width.

d. Landscaping for Industrial Properties. Lots located in the I-1 and I-2 Districts must meet the following landscaping requirements:

- (1) Front: Fifteen (15) foot wide area abutting the property line.
 - (2) Side/rear: Ten (10) foot wide area abutting the property line.
 - (3) In addition to the landscaping provisions set forth within this Section, lots located in the I-2 district must provide landscaping for twenty (20) feet of the required front yard abutting all front setback lines.
- e. Outdoor storage must be shielded with a visual barrier approved by the Planning Commission that adequately conceals material from the view of residential areas or public rights-of-way. Outdoor storage must be behind required front setbacks.
- (1) All outdoor storage facilities for manufacturing equipment, fuel, raw materials, subassemblies, finished goods, and defective or repairable goods must be enclosed by an opaque fence or other appropriate treatment. Any fence or treatment must be adequate to conceal facilities from adjacent property. Acceptable barriers include opaque fencing, berming, or other landscaping treatment.
 - (2) The Planning Commission may grant a waiver to screening requirements for outdoor storage upon approval of a site plan. The exception shall be based on a visual analysis of the site and proposed development identification of unusual topographic or elevation conditions, strategic design treatment, and demonstration that the strict enforcement of screening is not practical. Views into the site will determine the amount and location of landscaping.

8.10 Minimum Landscaping Materials.

- a. Whenever landscaping is required, it must consist at a minimum, of the types and quantities listed in Table (a)(1).

Table (a)(1) Minimum Landscaping Standards*					
Number to be planted					
Plant Material	Caliper/ Size at Planting (Minimum)	Two-family/ multi-family	Manufactured Home Park	Commercial Districts	Industrial Districts
Canopy/shade Trees**	1 inch/6 ft.	1 per 100 feet of perimeter	1 per 100 feet of perimeter	1 per 50 feet of perimeter	1 per 50 feet of perimeter
Understory Trees**	1 inch/4 ft.	None	None	1 per 50 feet of perimeter	1 per 75 feet of perimeter
Evergreen Trees	4 ft.	None	None	1 per 100 feet of perimeter	1 per 150 feet of perimeter
Evergreen and Deciduous Shrubs	18 inches	None	1 per 15 feet of street frontage	1 per 15 feet of perimeter	1 per 40 feet of perimeter
* Agricultural uses in any district will be excluded from these provisions except poultry.					
** All trees must maintain a minimum distance of twenty (20) feet from overhead utilities for species that exceed thirty (30) feet at maturity.					

- b. Canopy/shade trees species chosen must have a trunk at least twelve (12) inches in diameter when fully mature. At the time of planting the canopy/shade tree must have a minimum one (1) inch in caliper and a minimum six (6) feet or more in height.
- c. Understory trees shall reach a minimum height of thirty (30) feet at maturity. At the time of planting the understory tree must be one (1) inch in caliper and a minimum of four (4) feet or more in height.
- d. Evergreen trees must be at a height of four (4) feet or greater at planting.
- e. Evergreen and deciduous shrubs must be at a height of twenty-four (24) inches or greater at the time of planting.
- f. Landscape material must be at the sizes specified and arranged in such a manner as to complement the proposed structure or project and its surrounding nearby neighborhood.
- g. Landscaping shall emphasize native species trees, shrubs, and grass to reduce maintenance, to help ensure longevity, and to reinforce the natural character of the area. No more than fifty (50%) percent non-native species is permitted.
- h. Species should be selected partly on the basis of their visual appeal during different seasons of the year.
- i. Any applicant may incorporate and combine the mitigation requirements for meeting the provisions of the County's Forest Conservation Act, the Chesapeake Bay Critical Area Program, and the State's Non-Tidal Wetlands Act with these provisions.
- j. The applicant is required to post a performance bond with the County to ensure that any landscaping materials that die within eighteen (18) months of planting is replaced with the same or similar species and size, and that any landscape material is well maintained, specifically irrigated and fertilized, for a total of twenty-four (24) months from time of planting, unless waived by the Planning Commission. If landscape materials are removed, they must be replaced with material of similar size, shapeliness, function, hardiness, longevity, and appearance. Also see the Somerset County Critical Area Ordinance.

8.11 Alternative Planting Schemes.

- a. Alternatives. As an alternative, to the above requirements for plantings, an applicant may propose and the Zoning Administrator, Planning Commission, or Board of Zoning Appeals may approve:
 - (1) Variations that are required to comply with stormwater environmental site design (ESD) practices used to meet the equivalent in water quality control of a fifty (50%) percent decrease in impervious surface area.
 - (2) The retention of natural growth on the site to meet the requirements of this section, depending on width, density, and type of natural growth, provided that the Zoning Administrator, Planning Commission, or Board of Zoning Appeals may require additional supplemental plantings to obtain the effect intended by the purpose and intent of these requirements.
 - (3) Landscaping consisting of a combination of the plantings listed in this section and alternate plantings of various species and sizes provided that the

overall effect of the intent and purpose of the landscaping requirement is met.

- (4) Landscaping consisting of a combination of architectural materials, including fountains, special bricks, interlocking paving, decorative features, statues, and other combinations of landscaping features, materials, or plantings, including street trees.

8.12 Landscaping of Parking Facilities.

- a. Intent. It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of parking areas. Breaking up paved parking areas with plantings will provide improved aesthetics and micro-climatic benefits by reducing heat and glare. It also is the intent that ordinance is flexible with landscape standards in consideration of environmental site design (ESD) practices used to meet required stormwater management standards.

b. Landscaping Criteria

- (1) The primary landscaping material in all parking lots must be trees which at maturity are capable of providing shade or adequate to provide screening from adjacent uses.

- i. Shrubbery, hedges, and other planting materials may be used as complementary plantings.
- ii. Landscaping and planting areas shall be dispersed throughout the parking lot.
- iii. The interior dimensions and height of any planting island or planting median must be sufficient to protect the landscaping materials planted therein and to ensure proper growth.

- (2) Perimeter Requirements for all Off-street Parking Facilities.

- i. A planting strip shall be provided at least five (5) feet in width abutting any sidewalk or eight (8) feet in width abutting the property line parallel to the sidewalk. Where the parking lot does not abut a property line or sidewalk, a three (3) foot planting area must be provided.
- ii. A minimum five (5) foot wide screening area must be provided along all property lines abutting a residential district.

- (3) Islands. For parking lots of twenty-five (25) or more vehicles, landscaped islands must be provided as follows:

- i. Islands must have an average width of eight (8) feet, bordered by six (6) inch high asphalt, or vertical or rolled concrete curbs, within the six (6) feet at the ends of all parking bays abutting an aisle or driveway.
- ii. All islands must be landscaped with trees, shrubs, grass, and similar vegetation which may be combined with crushed stone or other decorative materials.
- iii. No more than ten (10) parking spaces may be located in a continuous arrangement without a landscape divider at least six (6) feet in width.

iv. For groups of ten (10) or more spaces, the six (6) foot divider shall be centered as evenly as possible and may be combined with decorative walkways.

v. In addition, a landscape island shall be located at each end of all parking isles.

(4) Flexibility. The Planning Commission may waive or modify any of the requirements of this subsection provided there is a reasonable justification such as accommodating environmental site design (ESD) practices used to meet required stormwater management standards.

8.13 Screening and Fencing Requirements.

- a. Purpose. The following regulations are intended to protect the property, health, safety, and welfare of occupants and users of land.
- b. Whenever screening is required, the following minimum screening materials may be used in any combination to accomplish the purpose and intent for which the screening is required.
 - (1) No more than an eight (8) foot high solid wood, ~~metal~~, brick, concrete, or otherwise architecturally solid fence comprised of the same material throughout. Metal ~~must not be used~~ may be considered.
 - (2) No more than an eight (8) foot high chain link fence with slat inserts where view is to be obscured.
 - (3) Berms, berms with fence installed, berms with trees and shrubs planted, or any combination thereof sufficient to provide a barrier at least six (6) feet in height (measured from the bottom of the berm).
 - (4) Plantings which will have a minimum of six (6) feet in height at maturity.
- c. Location. Whenever a fence is installed as a screen, it must not be placed on any abutting property line. Care should be given to placement in order to provide for the long term maintenance of the fence.
- d. Retention of existing natural vegetation depending on width, density, and type, provided that the Planning Commission or Board of Zoning Appeals may require additional, supplemental plantings to obtain the effect intended by the purpose and intent of this requirement.

8.14 Lighting Standards.

- a. Generally. All lighting, including exterior lights, signs, building lighting, parking lot lighting, streetlights, and lighting necessary for the safety and protection of property, must be directed, controlled, and focused within the site's property lines to minimize glare and illumination onto neighboring properties, protect the night sky from light pollution, and specifically to direct the light away from adjoining lots or roads. Light quality and intensity must be controlled and must not produce glare that reduces the visibility of the surrounding buildings. Light trespass (spillover lighting) onto adjacent properties and glare onto roadways is not permitted. This prohibition applies to all building and site lighting and must be addressed through appropriate luminaire intensities, mounting heights, landscaping, and fixture shields.
- b. Standards for multi-family, townhouse, commercial, and industrial development. All exterior lighting shall comply with the following:

- (1) An exterior lighting plan showing the site and building light fixtures and lighting levels as measured in watts and lumens may be required. Illumination levels attributable to a parking lot lighting system shall not exceed 0.5 horizontal foot-candle at the property line when adjacent to a residential zoning district.
 - (2) Sodium vapor lights are prohibited. All exterior lights shall be metal halide or another type of white lighting.
 - (3) All exterior light fixtures, other than fixtures on the building facade emitting two thousand fifty (2,050) lumens or more, must be full-cutoff light fixtures and be designed so that no light is projected at or above a ninety-degree (90°) plane running through the lowest point of the fixture where the light is emitted. No more than ten (10%) percent of the rated lumens is permitted to project between ninety (90°) and eighty (180°) degrees.
 - (4) Any lighting used to illuminate any vehicular travel ways or off-street parking areas, including any commercial parking lot, must be arranged so as to direct the light away from adjoining lots and public rights-of-way and must not obstruct vehicular travel ways, parking spaces, or pedestrian walkways. Freestanding pole-mounted fixtures may be located within parking spaces, provided that they are positioned at the shared corners formed by the head and side lines of no less than two (2) parking spaces.
 - (5) Lighting for canopies is restricted to lighting fixtures, including lenses that do not project below the bottom of the canopy.
 - (6) High-intensity lighting must be limited to utility areas and be located away from or screened from public use areas.
 - (7) No lighting fixture shall project light at an angle greater than forty-five (45°) degrees above the horizontal except as specifically approved by the Planning Commission after consideration of the object to be illuminated, the angle, the separation between the fixture and the object, and the strength of the light source.
- c. Nuisance lighting. Decorative or other forms of lighting, while not necessarily illuminating adjoining properties, must not cause or create patterns, colors, intermittent lighting effects, or other lighting that is intentionally or unintentionally directed onto adjacent or nearby properties and which proves vexatious.

6.13 Critical Areas. [Repealed – See Somerset County Critical Area Ordinance].

8.15 Site Plans.

a. General.

- (1) Purposes - To assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements.
- (2) Development 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.
- (3) Site plan submittals must be accompanied by an application signed by the owner of record or an officially designated representative.

b. Approval Requirements.

- (1) Site plans requiring subdivisions shall first meet all requirements of the County Subdivision Ordinance in addition to the requirements of this ordinance.
- (2) Site plans should comply with all State and Federal regulations.
- (3) Site plans are required for any multi-family development, mobile home park, or new or expanded principal industrial, institutional, or commercial use. A site plan shall meet the requirements of this section as listed below and shall be reviewed for completeness by the County Department of Technical and Community Services (DTCS) and approved by the Planning Commission. The County also requires review by the County's Technical Advisory Committee (TAC), except for uses listed in subsection (b)-(4) below.
- (4) Detailed site plans shall not be required for the following, however, a basic plot plan may still be required by the Zoning ~~Inspector~~ Administrator to determine compliance with this Ordinance:
 - i. ~~Additions~~ to existing buildings and construction of accessory structures involving an increase of less than 2,000 square feet of building floor area on the lot and which do not result in an increase of more than ~~two-hundred~~ (200%) percent in the total building floor area on the lot;
 - ii. ~~Ce~~onversion of existing buildings which involves less than 2,000 square feet of increased impervious surface;
 - iii. ~~H~~ome occupations which receive a home occupation permit;
 - iv. ~~A~~gricultural buildings; and
 - v. ~~S~~single family residential development.

c. Site Plan Information.

- (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. If a new lot is involved, a stamp and certification by a surveyor shall specifically be required.
- (2) If ~~such~~ plans are prepared ~~in on~~ more than one (1) sheet, match lines shall clearly indicate where the several sheets join. An index sheet ~~shall be~~ is required for four (4) or more match sheets.
- (3) Each site plan required under this section shall be required to include the following information, unless the Zoning ~~Inspector~~ Administrator determines specific information is not necessary to determine compliance with this Ordinance:
 - (a) ~~N~~ame and address of the owner and developer;
 - (b) ~~T~~he election district;

- (c) North point;
- (d) Tax map, block grid, and parcel number;
- (e) Date of preparation and any revisions;
- (f) Scale of the drawing;
- (g) The number of sheets;
- (h) An area or vicinity map at a scale of not smaller than one inch equals one mile (1" = 1 mile) sufficient to clearly identify the location of the property;
- (i) Existing topography at two (2) or five (5) foot contour intervals. Datum shall be stated in all cases and a reference or bench mark described on the plat together with the elevation. Source of contours shall be stated on the plat, such as field run or aerial topography, and the person responsible for preparing the topo shall be stated. Topography requirements may be waived at the discretion of DTCS. If determined to be necessary, DTCS may require that a surveyor certify the accuracy of the topography and the out-boundaries.;
- (j) Identification of slopes in excess of ten (10%) percent;
- (k) Proposed regraded surface of the land;
- (l) Location of natural features such as streams, drainage patterns; within the area to be disturbed by construction and the location of trees measuring greater than twenty-four inches (24") which will be impacted;
- (m) Any one-hundred (100) year floodplain boundaries on the site;
- (n) Approximate locations and names of all soil types (see County Soil Survey);
- (o) Location, proposed use, and height of all buildings (delineate existing from proposed structures);
- (p) Location of all parking, and loading areas, and aisles;
- (q) Location of any outdoor storage;
- (r) Location and type of recreational facilities (if any);
- (s) Location of existing or proposed site improvements, including storm drains, culverts, retaining walls, fences, stormwater management facilities, as well as any permanent sediment and erosion control structures including shoreline control measures and outdoor lighting facilities;
- (t) Description, method, and location of water supply and sewerage disposal facilities;
- (u) Location, size, and type of all signs;
- (v) Location, size, and type of vehicular entrances to the site, including any required acceleration/deceleration lanes;
- (w) Computations of:
 - i. Total lot area;
 - ii. Building floor area for each type of proposed use;
 - iii. Percentage impervious surface;
 - iv. Road area;
 - v. Number and area of off-road parking and loading spaces; and
 - vi. Open space areas; and areas to be protected under the Forest Conservation Plan.
- (x) The name of the zoning district;
- (y) Signatures of the applicant, the preparer of the plan, and a signature line for the Planning Commission Chairman;
- (z) Stamps/seals and signatures of any professionals involved in preparing the plan;

- (aa) The following shall be required if determined to be necessary by DTCS:
- i. Benchmarks and temporary benchmarks; all corners of the lot(s) and building(s) shall be marked on site as per the Site Plan;
 - ii. Maintenance agreement for any stormwater management facilities;
 - iii. Maintenance agreement for any private roads;
 - iv. Public works agreement;
 - v. Landscape plan.

d. In addition, with a site plan submission, the following plans or information shall be provided, if required under other County ordinances:

- (1) Stormwater Management Plan
- (2) Sediment and Erosion Control Plan
- (3) Forest Conservation Plan, approved FSD and FCP and/or letter of intent.

e. A site plan for a Commercial or Industrial uses shall also include:

- (1) Specific uses proposed;
- (2) Maximum number of employees for which buildings are designed;
- (3) Proposed method of disposal of such wastes or by-products;
- (4) Other information as may be specified in the regulations for industrial or commercial use in this Ordinance;
- (5) Evidence of a current approved soil and erosion control plan, prior to any construction;
- (6) DTCS may require a site plan for a commercial or industrial use to be filed in the County Land Records Office;
- (7) Proposed first floor elevation of new principal commercial or industrial building, tied into the County's vertical datum;
- (8) The Planning and Zoning Commission may require impact studies if determined necessary by the Commission, or on the recommendation of the Technical Advisory Committee. Applicants shall receive written notice of the required studies as well as a statement as to the reason(s) such studies have been required. Studies may include an Environmental Impact Report (EIR), a Hydrological Study, Community Impact Report and Transportation Impact Report, and other studies as applicable. Documentation of findings shall be included as a part of the impact study. Costs shall be borne by the applicant.

f. If Development is in the CA-1 Overlay District, the site plan shall be accompanied by the following:

- (1) Detailed drawing showing:
 - i. The location of the Critical Area Overlay District Boundary, the buffer and other buffer areas, open space areas and forested areas;
 - ii. Landscaping plan showing all areas to be maintained as landscaping, the type of plantings to be provided, and the means by which such landscaping will be permanently maintained shall be specified;
 - iii. The location of all Habitat Protection Areas as identified in Section 9 of the County Critical Area Program Ordinance; the location of any threatened or endangered species or species in need of conservation or adjacent to the site;
 - iv. The location of all contiguous forested areas adjacent to the site and wildlife corridors linking them to forested areas on the development site;

- v. The location of agriculture fields, barren lands, pasture, etc.;
- vi. The location of tidal and non-tidal wetlands on the site;
- vii. The location of existing water-dependent facilities, including the number of existing slips and moorings on the site; and
- viii. The location of anadromous fish spawning stream(s) on or adjacent to the site.

(2) Computations of:

- i. Total Area in CBCA and breakdown for each classification;
- ii. Separate computations of the total acres of existing forest cover in the Buffer and in the Critical Area;
- iii. Proposed agriculture open space areas;
- iv. Proposed forest open space areas; and
- v. Development in the IDA must include the computations for the **ten (10%) percent Rule Compliance**.

(3) Additional Information:

- i. A Forest Management Plan and/or planting plan;
- ii. A Habitat Protection Plan including the comments of the Department of Natural Resources;
- iii. An Environmental Assessment Report which provides a written statement of how the proposed development addresses the goals and objectives of the County Critical Area Program. At a minimum the Environmental Assessment shall include:
 - (a) 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.);
 - (b) 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;
 - (c) A discussion of the proposed development's impacts on water quality; and
 - (d) Documentation of all correspondence and findings.

~~g. Big Annemessex Watershed. If development is in the Big Annemessex River Watershed Overlay District, the site plan must be accompanied by the following:~~

- ~~1. The area of non-tidal wetlands on the site (as shown on the wetland delineation prepared by MDE and COE) and wetland buffer boundaries.~~
- ~~2. The area of proposed non-tidal wetland and wetland buffer impact calculations.~~
- ~~3. The final site plan shall show any building envelopes designated for the purpose of avoiding or minimizing impacts to non-tidal wetlands.~~

h. Enforceability and Changes. Once submitted and approved, a required site plan shall become binding, and any variation from the site plan that is not re-approved shall be a violation of this Ordinance. However, the Zoning ~~Inspector~~ Administrator or Director of DTCS may ~~in writing~~ approve minor variations, technical adjustments or minor corrections to an approved site plan, if ~~such the~~ proposed changes are submitted in writing. Any substantive change that involves matters within the purview of the Planning Commission shall require re-approval by the Planning Commission.

6.15 GA Growth Allocation Floating District. [Repealed – See Somerset County Critical Area Ordinance].

8.16 Optional Transfer of Development Rights. (Moved from Section 5.9)

- a. Purposes. In addition to serving the overall purposes of this Ordinance, this Section is intended to:
- (1) Encourage the permanent preservation of important farmland and environmentally sensitive areas;
 - (2) Direct growth to locations where public water and sewage services are available; and
 - (3) Provide a voluntary method for landowners to be compensated by the free market to preserve their land.
- b. Applicability.
- (1) Except as provided in subsection (b)(6) below, the Transfer of Development Rights shall only officially occur at the time of final approval of a subdivision plan. The approval of a preliminary plan shall be conditioned upon compliance with this Section. As part of a preliminary and final plan application, the applicant shall present a draft Conservation Easement on the “Sending Property” and a written, signed and notarized agreement by the owner of the “Sending Property” acknowledging and agreeing to the application.
 - (2) The Conservation Easement shall be drafted so that it is binding if the “Receiving Property” is granted final plan approval. The Conservation Easement shall be recorded at the same time as or prior to the final plan for the Receiving Property.
 - (3) The form of the Conservation Easement shall be acceptable to the County Commissioners, based upon review by the County Attorney and Planning Commission. For agricultural lands, the form of the easement may follow the format of the agricultural preservation easement used under the County Agricultural Lands Preservation program. Land that was previously restricted by a conservation or agricultural preservation easement may not be used as a Sending Property under this Section 5.9.
 - (3) A Sending Property shall be within the AR or CO districts.
 - (4) A Receiving Property shall must be within the R-1, R-2, R-3, or MRC districts. In addition, portions of the AR district that are directly adjacent to a R-1, R-2, R-3, or MRC district may be used as Receiving Property.
 - i. Therefore, for example, density may be transferred from one (1) tract in the AR district to a different tract in the AR district that is next to a residential district, or from the CO district to the R-1 district.
 - ii. Density shall not be transferred onto land within the Resource Conservation Areas (RCA) portion of the Critical Areas District. Other Critical Areas regulations may also apply.
 - (5) The owners of the Sending and Receiving Property voluntarily commit to participate in the Transfer of Development Rights. Once such a Conservation Easement is established, it shall be binding upon all current and future owners of the Sending Property. The applicant for the Receiving Property is responsible to negotiate with and pay compensation to the owner of the Sending Property for the Conservation Easement. Such The transaction shall occur privately, and the value

be determined by the private market. The County is under no obligation to pay the owner of the ~~S~~ending ~~P~~roperty.

- (6) Third Parties. The right to develop a ~~S~~ending ~~P~~roperty may be purchased by or donated to the County or an established incorporated non-profit organization whose mission includes preservation of agricultural land or natural features. A permanent ~~C~~onservation ~~E~~asement shall be established on the ~~S~~ending ~~P~~roperty at the time of ~~such~~ purchase or donation. In such case, the right to develop ~~such~~ dwelling units may be held for a maximum of ten (10) years, before being used on a ~~R~~ecieving ~~P~~roperty(ies). The ~~C~~onservation ~~E~~asement shall exist in perpetuity and shall not be sold.

i. Except as provided by the above subsection (b)(6), the right to additional numbers of dwelling units under ~~T~~ransfer of ~~D~~evelopment ~~R~~ights shall not:

- (a) ~~B~~e transferred to a third property who does not control the approved ~~S~~ending ~~P~~roperty; nor
- (b) ~~B~~e sold to an intermediary for resale outside of the development approval process provided for in this Section.

- (7) Clustering. The transfer of development rights ~~shall~~ is not permitted to be combined with the ~~C~~luster ~~D~~evelopment ~~O~~ption.

c. Definitions.

- (1) ~~S~~ending ~~P~~roperty. A lot(s) or portion of a lot that is restricted by a conservation easement or farmland preservation easement as a condition of approval of a higher density on the "~~R~~ecieving ~~P~~roperty" than would otherwise be permitted.
- (2) ~~R~~ecieving Property. A lot(s) that is approved to permit a higher density than would otherwise be permitted as a condition of the restriction of development on ~~S~~ending ~~P~~roperty.

d. Determination of Density.

- (1) Yield ~~P~~plans shall be presented for the ~~S~~ending ~~P~~roperty and the ~~R~~ecieving ~~P~~roperty by the applicant for the ~~R~~ecieving ~~P~~roperty. ~~Such~~ ~~Y~~ield ~~P~~plans shall be a level of detail typically found in a sketch plan, including showing potential lots and roads, known floodplains, and suspected wetlands. ~~Such~~ ~~Y~~ield ~~P~~plans shall estimate the number of new dwelling units that could be lawfully constructed on the ~~S~~ending ~~P~~roperty and ~~R~~ecieving ~~P~~roperty under applicable regulations without any transfer of development rights. Detailed septic perc tests are not required for ~~such~~ sketches, but new septic systems shall not be assumed to be possible in areas with obviously severe limitations.
- (2) ~~Such~~ Yield ~~P~~plans shall be reviewed by the Zoning ~~Inspector~~ Administrator or Director of ~~DTCS~~ the Department of Technical and Community Services to determine whether they represent a reasonably accurate estimate of the number of dwelling units possible on the sites, both physically and legally. If ~~such~~ estimates are determined to not be accurate, the applicant shall be required by the Zoning ~~Inspector~~ Administrator to revise the ~~Y~~ield ~~P~~plans.
- (3) Based upon the County-accepted ~~Y~~ield ~~P~~plans, permission to develop a number of dwelling units may be transferred from the ~~S~~ending ~~P~~roperty to the ~~R~~ecieving ~~P~~roperty. The potential to develop some or all of the dwelling units may be transferred from the ~~S~~ending ~~P~~roperty, depending upon the amount of land affected by the permanent ~~C~~onservation ~~E~~asement. For example, if under current zoning,

five (5) dwelling units would be possible on the western portion of a lot and six (6) dwelling units on the eastern portion, the owner may choose to transfer the right to develop five (5) dwelling units by placing a permanent conservation easement on the western portion. The owner would then still have the right to develop the eastern portion under the zoning in effect at the time of a future development application for that eastern portion.

- (a) If only a portion of a lot would be affected by the Conservation Easement, the applicant shall prove that the Conservation Easement would permanently preserve a contiguous area of rectangular (or similar regular) shape that would relate to the number of dwelling units that would otherwise be allowed on such the portion of the lot.

~~(4) Reserved.~~ (Removed - unnecessary)

- (4) The Receiving Property shall be permitted to include an increased total number of dwelling units above the number that would otherwise be permitted. The total number of dwelling units possible on the Receiving Property shall be based upon the number of dwelling units determined to be permitted on the Receiving Property without any transfer of development rights, plus the number of dwelling units permitted to be transferred from the Sending Property. However, in no case shall the following lot areas and densities be exceeded:

- i. AR district - Only single family detached dwellings shall be permitted. The lot and dimensional requirements may be reduced to the requirements of the R-1 district, including a reduction of the minimum lot area from 43,560 to 20,000 square feet.
- ii. R-1 District - Only single-family detached dwellings shall be permitted. The minimum lot area may be reduced from 20,000 square feet to 12,000 square feet, and the minimum lot width may be reduced from eighty-five (85) feet to eighty (80) feet.
- iii. R-2 District - For single family detached dwellings, the minimum lot area may be reduced from 10,000 to 7,000 square feet, and the minimum lot width from eighty (80) to seventy (70) feet. The maximum average density for other types of dwellings permitted in the R-2 district may be increased by a total maximum of up to twenty-five (25%) percent above the density that would otherwise be permitted, provided sufficient dwelling units are transferred.
- iv. R-3 and MRC Districts - For single family detached dwellings, the minimum lot area may be reduced from 8,000 to 6,000 square feet, and the minimum lot width from eighty (80) to fifty (50) feet. The maximum density for a manufactured home park shall not be increased under this Section. The maximum average density for other types of dwellings permitted in the R-3 or MRC district may be increased by a total maximum of up to twenty-five (25%) percent above the density that would otherwise be permitted, provided sufficient dwelling units are transferred.
- v. Sewage and Water. To receive a transfer of development rights, any proposed lot less than one (1) acre in size shall be served by both County-approved central sanitary sewage service and public water services. The Planning Commission may approve alternative methods of providing central sewage and water service, such as a community cluster septic system with pre-treatment. Such Approval shall be conditioned upon the applicant proving that there will

be suitable system to make sure that the system will be properly funded and professionally maintained over time. The County may require that agreements be put into place to interconnect any private water or sewage system into a larger public system in the future if public service becomes available.

- e. Once a conservation easement is established under a ~~T~~ransfer of ~~D~~evelopment ~~R~~ights, it shall be permanent, regardless of whether the ~~R~~eceiving ~~P~~roperty is developed, except as follows:
 - (1) If development approvals for the ~~R~~eceiving ~~P~~roperty expire and the development is not completed, and the owner of the ~~S~~ending ~~P~~roperty has not received full payment for the conservation easement, then in response to a written request from the owner of the ~~R~~eceiving ~~P~~roperty, the Board of County Commissioners may release some or all of the ~~R~~eceiving ~~P~~roperty from the conservation easement in proportion to the amount of the development that was not built and for which the owner of the ~~S~~ending ~~P~~roperty was not compensated for, whichever is a lower number of dwelling units. In such case, the right to develop ~~such~~ the number of dwelling units shall no longer run with the ~~R~~eceiving ~~P~~roperty.
 - (2) The conservation easement shall be enforceable by the Somerset County Board of County Commissioners or their designee. The approval to develop the ~~R~~eceiving ~~P~~roperty in a higher density shall be treated in the same manner as any other Final Subdivision approval. The County may extend time limits to complete the development of the ~~R~~eceiving ~~P~~roperty in response to a written request. Except as provided for in subsection (e)(1) above, the right to develop the transferred number of dwelling units shall run with the land, and may be used in a new development approval if the original development approval expires.
- f. As part of a ~~T~~ransfer of ~~D~~evelopment ~~R~~ights, the development of the ~~R~~eceiving ~~P~~roperty shall comply with all County requirements, except for provisions specifically modified by this Section.

8.17 Stream Buffers. (Previously section 6.17)

- a. Definition of a Stream. A natural body of running water flowing continuously or intermittently in a channel. A stream shall not include man-made elements of a drainage system, such as engineered swales, culverts, ditches, channels, retention facilities, or storm sewer systems.
- b. Critical Areas. The provisions of this Section ~~6.17~~ shall not apply within the designated Critical Areas. See ~~Section 6.13~~, the Critical Area Ordinance.
- c. Buffer Width. For any lot granted subdivision approval after the effective date of this Ordinance or for which a permit is applied for to authorize a new principal building, outside of the Critical Areas, the following requirements shall apply:
 - (1) A vegetative buffer shall be maintained along each stream, and shall be shown on the record plat of any proposed subdivision. This buffer shall be whichever of the following is wider: a) the ~~twenty (25) feet~~ foot minimum undisturbed buffer required around non-tidal wetlands under State regulations, or b) the ~~fifty (50) feet~~ foot

minimum buffer required from the top of the stream bank under the County Forest Conservation Ordinance.

- (2) Where practical, the stream buffer shall be placed within common open space or required landscaped areas or required reforested areas.
- (3) The County may require that conservation easements and/or deed restrictions be placed on each lot to make sure that the buffer is maintained.
- (4) Within the buffer, no new or expanded buildings or paving shall be permitted, except an approximately perpendicular road or driveway crossing that the applicant proves to the satisfaction of the Planning Commission is unavoidable to allow reasonable use of the property.
- (5) The buffer shall be maintained in vegetation, and should be planted as needed to result in canopy trees and thick understory vegetation.
- (6) This section 6.17 by itself shall not require the establishment of a buffer along a man-made: drainage ditch, swale, channel, or stormwater retention/detention facility.

8.18 Habitats of Rare, Threatened and Endangered Species. (Previously section 6.18)

a. Critical Areas. See ~~Section 6.15.~~ the Critical Area Ordinance.

b. Outside of Designated Critical Areas.

- (1) If a proposed subdivision or other development will involve ten (10) or more acres of land, then the applicant shall submit a written analysis of the environmental features of the land.
- (2) If the staff of the County Department of Technical and Community Services are aware of the presence of Federal- or State-designated habitats of rare, threatened, or endangered species on the subject land, then ~~such~~ the Department shall forward information regarding the proposed development to the applicable office of the Maryland Department of Natural Resources and/or the U.S. Fish and Wildlife Service.
- (3) The applicant shall then be responsible to work with the applicable Federal or State agency to comply with any applicable Federal or State regulations.

SECTION 9
ADMINISTRATION AND ENFORCEMENT

9.1 Administration and Enforcement.

- a. It shall be the duty of the Zoning ~~Inspector~~ Administrator or designee to administer and cause the enforcement of the provisions of this Ordinance. The Director of the Department of Technical and Community Services (“DTCS”) and Assistant ~~Zoning Inspectors~~ Director may accomplish all of the same duties as the Zoning ~~Inspector~~ Administrator.
- b. All departments, officials and public employees of the County which are vested with the authority to issue permits or licenses, shall conform to the provisions of this Ordinance, and shall not issue any permit or license for any use, building, structure, or purpose which would be in conflict with the provisions of this Ordinance.
- c. Any permit or license, issued in conflict with the provisions of this Ordinance, shall be null and void.
- d. The Zoning Administrator or his or her designee shall: **(NEW Subsection – Standard Language)**
 - (1) Receive and review all applications for Zoning Certificate Permits.
 - (2) Approve/Disapprove applications based on compliance or non-compliance with the provisions of the zoning ordinances and plans, and issues certificates when there is compliance.
 - (3) Suspend or revoke a permit issued under the provisions of the Zoning Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent, and is in violation of any of the provisions of any of the ordinances/regulations of the county.
 - (4) Inspect the violations of the Zoning Ordinance, order the violator in writing of required actions to correct any violation, and inform the violator in writing of rights to appeal a decision. Recommend injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate, or remove any unlawful erection, alteration, maintenance or use, for both civil and criminal remedies, as provided by law.
 - (5) Receive all applications for site plan review which the Planning Commission is required to decide under the ordinances and plans.
 - (6) Conduct field inspections and investigations.
 - (7) Notify applicant in writing of any decision of the Planning Commission, and implements the decisions of the Planning Commission.
 - (8) Receive all applications for appeals, variances or other matters which the Board of Zoning Appeals is required to decide.
 - (9) Receive and prepare all applications for amendments to the Zoning Ordinance, and otherwise processes the applications and prepares recommendations to the Planning Commission.
 - (10) Maintain a map or maps showing the current zoning classifications of all land in the County.

- (11) Maintain written records of all actions taken by the Zoning Administrator.
- (12) Grant administrative variances as provided in **Section 9.2.**

9.2 Administrative Variances. (NEW Section)

a. Administrative variances.

(1) An administrative variance may be granted by the Zoning Administrator for:

- i. A request to vary a setback/yard requirement in a residential district provided no structure or use encroaches closer than one (1) foot to any property line nor result in the construction of a principal structure located within ten (10) feet of another principal structure located on an adjacent property.
- ii. A minor expansion of a nonconforming structure provided the structure is not located within the Critical Area and subject to the following limitations:
 - (a) The expansion encroaches no further than the existing structure into a required setback.
 - (b) The expansion will not enlarge the existing structure by more than twenty (20%) percent of the gross floor area existing on or after [DATE – **This date will be if/when the ordinance is adopted**].

(2) An administrative variance may not be granted for the following:

- i. Density, minimum lot size, and minimum lot width requirements.
- ii. Requirements not related to the location or dimensions of structures, such as number of employees and time of operation.

b. Standards for an administrative variance. The Zoning Administrator shall approve or deny an administrative variance pursuant to the standards for variances provided below.

(1) In order to vary or modify the provisions of this section the Zoning Administrator must determine that the application meets all of the following criteria.

- i. That owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in unnecessary and undue hardship and/or in practical difficulty.
- ii. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not commonly applicable to other lands or structures in the same district;
- iii. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
- iv. That the special conditions and circumstances do not result from the actions of the applicant;
- v. That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.
- vi. That the presence of a nonconforming use on neighboring lands and/or of a permitted use in another district shall not by itself be considered grounds for

the issuance of a variance.

- vii. That the granting of the variance will be in harmony with the purposes of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(2) The Zoning Administrator shall:

- i. Make written findings, based on competent and substantial evidence, as to whether the applicant has overcome the presumption of nonconformance established in paragraph 1 above; and,
- ii. Base their written findings on evidence introduced and testimony presented by the applicant, the county, or any other government agency, or any other person deemed appropriate by the county, with due regard for the person's experience, technical competence, and specialized knowledge.

(3) If the Zoning Administrator finds that the activity or structure for which a variance is requested commenced without permits or approvals and:

- i. Does not meet each of the variance criteria under this subsection, the Zoning Administrator shall deny the requested variance and order removal or relocation of any structure and restoration of the affected resources; or
- ii. Does meet each of the variance criteria under this subsection, the Zoning Administrator may grant approval to the requested administrative variance.

(4) The Zoning Administrator may impose conditions on the use or development of a property which is granted an administrative variance.

c. Approval time and notice requirements.

(1) The Zoning Administrator shall at least fourteen (14) days before acting on any application for an administrative variance post on the land or building involved a notice of the application.

(2) The Zoning Administrator shall send written notice of an application for administrative variance to adjacent property owners by registered, certified, or first class mail. The "date of notice" shall be the date the notice is mailed. The notice shall specify that the Zoning Administrator will approve or disapprove the administrative variance request not less than twenty one (21) days after the date of notice. If written notice is provided by first class mail, then an affidavit that notice has been sent must be filed with the application.

(3) The notice required to be served upon adjacent property owners shall contain the following information:

- i. Name and address of the applicant;
- ii. Address and location of the property for which the administrative variance is sought;
- iii. Current zoning of the property for which the administrative variance is sought;
- iv. The administrative variance requested and the reason for the requested administrative variance;
- v. The application file number; and

- vi. Contact information for the Zoning Administrator.
- (4) If an adjoining property owner objects to the application, in writing, prior to the date the Zoning Administrator renders the decision on the application, then the application shall be transferred to the Board of Zoning Appeals for a decision as provided in **Section 11.3**
- (5) The Zoning Administrator shall approve or disapprove an application for an administrative variance not less than twenty-one (21) days after the date of notice on the application nor more than ninety (90) days after the application for the variance is received.
- (6) Applications denied by the Zoning Administrator may be appealed to the Board of Zoning Appeals.
- d. Expiration of administrative variance.
 - (1) An administrative variance shall be implemented within twelve (12) months following the date of approval.
 - (2) Upon written request, before expiration of the initial time limit, and for good cause shown, the Zoning Administrator may extend the administrative variance approval for not more than one (1) like period. Failure to implement the approval within the prescribed time voids the approval.

9.3 Violations. (**Previously section 7.1.d**) If the Zoning ~~Inspector~~ Administrator, or a designee, shall find that any of the provisions of this Ordinance are being violated, the ~~Inspector~~ Administrator, or a designee, shall notify in writing the person responsible for ~~such~~ violations, indicating the nature of the violation and ordering the action necessary to correct it.

- a. The ~~Inspector~~ Administrator, or a designee, shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, or structure or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- b. For the purposes of this provision a violation shall include, but not be limited to, the infractions of the following Somerset County Ordinances, Programs, and orders of the Board of Zoning Appeals:
 - (1) ~~Violation of Somerset County~~ Zoning Ordinance,;
 - (2) ~~Violation of Aan existing Somerset County~~ Board of Zoning Appeals order, condition or restriction,;
 - (3) ~~Violation of Somerset County~~ Nuisance Ordinance,;
 - (4) ~~Violation of Somerset County~~ Forest Conservation Ordinance,;
 - (5) ~~Violation of Somerset County~~ Flood Plain Management Ordinance,;
 - (6) ~~Violation of Somerset County~~ Critical Area Program,;
 - (7) ~~Violation of Somerset County~~ Subdivision Ordinance,;
 - (8) ~~Violation of Somerset County~~ Building Code Ordinance.

- (9) Any other violation including, but not limited to, non-compliance with any order of the Department of Technical and Community Services (DTCS), the Board of Zoning Appeals, or a court of competent jurisdiction including but not limited to ~~in an~~ order to modify or remove a structure, to perform mitigation, or to pay fines or assessed penalty fees related to a citation or other violation issued by DTCS.
- (10) A violation shall further include the failure to pay, or have dismissed by a court of competent jurisdiction a penalty fee assessed for a violation of ~~the any~~ Somerset County Forest Conservation Ordinance.
- c. No zoning application, application to the Somerset County Board of Zoning Appeals for administrative review, modification of an existing Board of Zoning Appeals order, special exception, variance
- d. , or other application seeking action by the Board of Zoning Appeals or the Somerset County Planning and Zoning Commission shall be accepted or shall otherwise proceed if a violation as above described shall exist upon or be related to the subject parcel until the violation is corrected or a plan has been approved permitting the application to proceed.

9.4 Complaints and Investigations of Violations. (Previously Section 7.7)

- a. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person, including a representative of Somerset County in the performance of their duties, may report a complaint. ~~Such~~ The complaint shall state fully the causes and basis thereof and shall be documented by the Department of Technical and Community Services (DTCS). DTCS shall promptly investigate the complaint and take appropriate action in accordance with this Ordinance. In the course of investigation of a complaint, DTCS is authorized to enter upon the subject property in order to identify or verify a reported violation. The authority to investigate a reported violation shall not include the entry into a dwelling, or other structure, on the subject property without the consent of the property owner, or the property owner's agent, unless a permit has been issued authorizing ~~such~~ entry as part of the ordinary inspection process.
- b. When an investigation of a complaint requires entry upon private land where no permit or permission from the owner exists, the following procedures shall apply:
 - (1) The investigator shall use a marked Somerset County vehicle and have personal Somerset County identification visible.
 - (2) The investigator may enter a driveway or other access on the property unless the property is posted "No Trespassing".
 - (3) A posting of "No Trespassing" shall be honored and the investigator may use other means of contacting the owner.
 - (4) If there is no visible posting of "No Trespassing" on private land with improvements such as buildings or enclosed structures, the investigator shall attempt contact on site with the owner including, but not limited, to knocking on the door or ringing the doorbell. The investigator, upon failing to make on site contact may also conduct a

cursory inspection of the curtilage around the buildings or enclosed structures, but shall not enter any buildings or enclosed structures on the property.

- (5) If there is no visible posting of “No Trespassing” on private open land with improvements such as buildings or enclosed structures, the investigator shall be authorized to enter upon the private open land and conduct a cursory inspection.

9.5 Zoning Certificate Required. (Previously Section 7.2) No structure shall be erected, placed, moved, added to, demolished, or changed in use, and no use of land shall be changed prior to the issuance by the Zoning Inspector Administrator of a certificate authorizing such action.

- a. Time Limit. See Section 9.8.
- b. A zoning certificate shall also be required for any agricultural structure. A zoning certificate shall also be required for a new placement or replacement of a mobile/manufactured home.
- c. A zoning certificate shall only be issued after the applicant proves conformity with the provisions of this Ordinance, except if a variance is granted by written order from the Board of Zoning Appeals as provided in Section 11.3.
- d. Sewage and Water. No zoning certificate shall be issued until the proposed water supply system and disposal of sanitary wastes have been approved by the County Health Department.
- e. Driveway and Drainage. No zoning certificate shall be issued until the proposed location and design of any driveway and drainage structures connected with any public road have been approved by either the County Roads Department Director (or designee) or State Highway Administration District Engineer, as applicable.
- f. Site Plans. See Site Plan submission and approval requirements in Section 8.15.

9.6 Application for Zoning Certificate. (Previously Section 7.3)

- a. All applications for zoning certificates shall include such information as may be required by the Zoning Inspector Administrator or as may be established by regulations from time to time by the Planning Commission, in order to determine conformance with this Ordinance. At a minimum, applications must include the following:
 - (1) ~~Information.~~ Such information may be required to include:
 - (1) Aa description of existing or proposed buildings or alterations and uses of building and land;
 - (2) Nnumber of proposed dwelling or rental units;
 - (3) Ceonditions existing on the lot, description of the land, and existing and proposed buildings; and
 - (4) Pplats or scale drawings thereto where determined necessary by the Zoning Inspector Administrator in order to properly consider the application; and
 - (5) such Oother matters as may be necessary to determine conformance with this Ordinance.

- b. Copies. One (1) copy of the application together with any attached plans or exhibits shall be returned to the applicant by the Zoning ~~Inspector~~ Administrator, with a certificate approved or disapproved and signed by the Zoning ~~Inspector~~ Administrator. A copy similarly marked and signed shall be retained by the Zoning ~~Inspector~~ Administrator.
- c. Site Plan. Certain uses shall be required to submit more detailed site plans. See Section 8.15.

9.7 Zoning Occupancy Permits for New, Altered, or Non-Conforming Nonconforming Uses.
(Previously Section 7.4)

- a. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a zoning occupancy permit ~~shall have been~~ is issued therefore by the Zoning ~~Inspector~~ Administrator, stating that the proposed use of the building or land conforms to the requirements of this Ordinance.
- b. A ~~non-conforming~~ nonconforming use shall not be ~~maintained, renewed, changed or extended~~ enlarged until a zoning occupancy permit has been issued by the Zoning ~~Inspector~~ Administrator.
 - (1) ~~The zoning occupancy permit shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance, provided that upon enactments or amendment of this Ordinance, owners or occupants of non-conforming uses shall have 3 months to apply for zoning occupancy permits.~~
 - (2) ~~Failure to make such application within 3 months shall be presumptive evidence that the property was non-conforming at the time of enactment or amendment of this Ordinance.~~
- c. No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a zoning occupancy ~~permit~~ certificate. The ~~permit~~ occupancy certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work.
- d. Temporary Permits Certificates.
 - (1) A temporary occupancy ~~permit~~ certificate may be issued by the Zoning ~~Inspector~~ Administrator for a period not exceeding nine (9) months during alterations or partial occupancy of a building pending its completion, provided that ~~such~~ the temporary ~~permit~~ certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.
 - i. A temporary occupancy ~~permit~~ certificate not to exceed nine (9) months may be granted for a mobile or manufactured home to be used as living or business quarters. Any requests for an additional temporary occupancy ~~permit~~ certificate for a mobile or manufactured home shall be submitted to the Board of Zoning Appeals. Any applicable ~~Special~~ Exception procedure shall be followed.
 - (2) A temporary ~~permit~~ certificate may be issued by the Zoning ~~Inspector~~ Administrator for routine and customary temporary uses, such as the placement of construction trailers on a lot while construction on the lot or development tract is actively underway. ~~Such~~ Trailers shall be removed immediately upon completion of the work.

- e. Records. The Zoning ~~Inspector~~ Administrator shall maintain a record of all zoning occupancy ~~permit~~ certificates, and ~~Ceopies~~ ~~shall~~ ~~must~~ be furnished upon request to any person.
- f. Violation. Failure to obtain a zoning occupancy ~~permit~~ certificate shall be a violation of this Ordinance and punishable under this Ordinance.

9.8 Time Limits on Zoning Approvals and Permits. (Previously Section 7.5) The following time limits shall apply, unless specifically stated otherwise by a Board of Zoning Appeals decision.

- a. Special Exception. Where the Board of Zoning Appeals has granted special exception approval, a zoning certificate for ~~such~~ activity shall be applied for within two (2) years. Otherwise, ~~such~~ approval shall be canceled by the Zoning ~~Inspector~~ Administrator, who ~~shall~~ ~~must~~ provide written notice to the applicant.
- b. Start of Construction. If the work described in any zoning certificate has not begun within twelve (12) months from the date of issuance thereof, said certificate shall expire; it shall be canceled by the Zoning ~~Inspector~~ Administrator, and written notice thereof shall be given to the applicant.
- c. Completion. If the work described in any zoning certificate has not been substantially completed within two (2) years after the date of issuance, unless work is satisfactorily proceeding thereof, said permit shall expire and be canceled by the Zoning ~~Inspector~~ Administrator. In such case, written notice thereof shall be given to the applicant, together with notice that further work as described in the canceled certificate shall not proceed unless and until a new zoning certificate has been obtained.
- d. Extensions. The time limits established by this subsection ~~7.5~~ may be extended by the Planning Director or ~~D~~designee after receiving a written application for ~~such~~ extension.
 - (1) ~~Such~~ The extension may be granted if the Planning Director or ~~D~~designee finds ~~such~~ that work is delayed by non-issuance of permits, licenses, or other approvals by any governmental agency(ies), and that the applicant had diligently and in good faith pursued the issuance of ~~such~~ approvals, and that there is a reasonable possibility of the eventual issuance of ~~such~~ approvals.
 - (2) ~~Such~~ Time limits may be extended for a length of time and with ~~such~~ further conditions as the Planning Director or ~~D~~designee deems appropriate.

9.9 Construction and Use to be Consistent with Applications and Approvals. (Previously Section 7.6)

- a. All work, use, construction, and activity regulated by this Ordinance shall only occur in a manner that is fully consistent with County-approved applications, permits, certificates, and site plans.
- b. Any variation from ~~such~~ approvals shall be a violation of this Ordinance, unless ~~such~~ the variations are ~~re~~-approved by the County.
- c. For site plans that are required to be approved by the Planning Commission, any changes to ~~such~~ site plans shall require ~~re~~-approval by the Planning Commission if the changes affect matters that were within the Planning Commission's jurisdiction.

- d. Minor technical adjustments and corrections to previously approved applications, certificates, and site plans may be approved by the Zoning ~~Inspector~~ Administrator.

~~7.8. Similar Uses and Uses Not Addressed by this Ordinance.~~ (Moved to Section 5.4)

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SECTION 10
BOARD OF ZONING APPEALS PROCEDURES
(Previously Section 8)

10.1 Board of Zoning Appeals. (Previously Section 8.1) The existing Somerset County Board of Zoning Appeals is continued in full effect. The Board shall consist of five (5) members appointed by the President of the County Commissioners and confirmed by a majority of the Board of County Commissioners. Members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term.

- a. Removal. ~~Such~~ The members are removable by a majority vote of the County Commissioners for good cause, upon written charges, and after a public hearing.
- b. Proceedings of the Board of Zoning Appeals.
 - (1) The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine.
 - (2) The Chairperson or Acting Chairperson may administer oaths and compel the attendance of witnesses.
 - (3) All meetings shall be open to the public.
 - (4) Minutes shall be kept of the proceedings of the Board of Zoning Appeals, showing the vote of each member upon each question, and stating all official actions and decisions. Such material shall be of public record.

10.2 Board Hearings, Appeals and Notices. (Previously Section 8.2)

- a. Appeals. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance may be taken by any person or entity aggrieved or by the County Commissioners or Planning Commission or another County Staff person authorized by the County Commissioners.
 - (1) Time Limit. ~~Such~~ Appeals shall be taken within a reasonable time of ~~such~~ the decision, not to exceed twenty (20) days, by filing with the Zoning ~~Inspector~~ Administrator and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof.
 - (2) After an appeal is ~~made~~ filed, the Zoning ~~Inspector~~ Administrator shall transmit to the Board all applicable papers constituting the record. ~~upon which the appeal was taken from.~~
- b. Appeal Hearings. The Board of Zoning Appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties known to be in interest, and hold the public hearing within thirty (30) days from the date of filing of a complete notice of appeal.

- (1) At least **ten (10)** days' notice of the time and place of **such** the hearing shall be published in a paper of general circulation and by posting at the property.
- (2) At the hearing, any party may appear in person, or by agent or attorney.
- (3) The Board shall then decide the appeal within **fifteen (15)** days from the time of hearing.

10.3 Stay of Proceedings. (Previously Section 8.3)

- a. An appeals stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of **Zoning Appeals** after the notice of appeal is filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property.
- b. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of **Zoning Appeals** or by the Circuit Court on application, on notice to the **Zoning Inspector Administrator** from whom the appeal is taken and on due cause shown.

SECTION 11
BOARD OF ZONING APPEALS: POWERS AND DUTIES

The Board of **Zoning** Appeals shall have the following powers and duties:

- 11.1 Administrative Review. (Previously Section 9.1)** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning ~~Inspector~~ Administrator in the enforcement of this Ordinance.
- 11.2 Special Exceptions. (Previously Section 9.2)** Conditions Governing Applications: Procedures. To hear and decide only ~~such~~ special exceptions as the Board of Zoning Appeals is specifically authorized to pass on by the terms of this Ordinance, to decide ~~such questions as are involved in determining~~ whether special exceptions should be granted and to grant special exceptions with ~~such~~ conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. A special exception shall not be granted by the Board of Zoning Appeals unless and until:
- a. A written application for a special exception 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. Notice shall be given at least ten (10) 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 County Courthouse, and notice shall be published in a newspaper of general circulation in the County, at least ten (10) days prior to the public hearing. Notice may also be posted to the Somerset County website.
 - c. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - d. The Board of Zoning Appeals shall make a finding ~~such~~ as it is empowered to do under the section of this Ordinance, "application to grant the special exception," and that the granting of the special exception will not adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of the people living in the neighborhood.
 - (1) In granting any special exception, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of ~~such~~ conditions and safeguards when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance and punishable under ~~Section of~~ this Ordinance.
 - (2) The Board of Zoning Appeals ~~shall~~ may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, ~~such the~~ action within the time limit set shall void the special exception. Also see **Section 9.8.**

- e. When hearing evidence necessary for granting of any Special Exception, the Board shall consider all pertinent facts in the case, and render a decision in accordance with the following principles:
- (1) The proposed use conforms in all respects to minimum requirements of the district in which it is located;
 - (2) The proposed use ~~is~~ **will** not adversely affecting the health, safety, and general welfare of residents of the area;
 - (3) The proposed use will not interfere with the adequate and orderly provision of public facilities necessary to service the area or the proposed Special Exceptions;
 - (4) The proposed use will not create congestion in the road or undue traffic hazards and that adequate ingress and egress is provided;
 - (5) The proposed use will not adversely affect the area and surrounding property due to adverse environmental characteristics including undue smoke, odor, noise, improper drainage inadequate access;
 - (6) The proposed use will not adversely affect the established character of the area; and
 - (7) The proposed use is consistent with the guidelines established for such uses in the County's Critical Area Program, where applicable.
 - (8) The proposed use is consistent with the Comprehensive Plan or a local Area Plan adopted by the Board of County Commissioners.
- f. When hearing any application for a Special Exception, the Board may consider the design of the proposed site plans, feasibility studies, or construction drawings, as an integral part of the application and as a means of ascertaining that any adverse affects on surrounding property will be minimized.
- g. Future changes to the site layout, footprint, or any other substantive change may require a special exception amendment or as otherwise conditioned by the Board of Zoning Appeals. Changes of a minor nature may be approved administratively. The Board of Zoning Appeals may decide if a proposed substantive change warrants an additional public hearing. **(NEW - This is a 'reminder' that the Board of Zoning Appeals may require an amendment to special exceptions for 'substantive' changes)**
- h. Persons with Disabilities. After the Zoning ~~Inspector~~ **Administrator** receives a complete written application, the Board of **Zoning** Appeals shall grant a special exception allowing a modification to one **(1)** or more specific requirements of this Ordinance if the applicant proves ~~such~~ modification is required under applicable Federal law.
- (1) This subsection is specifically intended to provide a process for case by case consideration of a request for a reasonable accommodation under the Federal Fair

Housing Act Amendments and/or the Americans with Disabilities Act to provide for persons with disabilities as defined by such laws. For example, the Board of **Zoning** Appeals may approve an increase in the number of unrelated persons in a **G**group domiciliary care **H**home beyond the number otherwise allowed.

- (2) The applicant shall prove to the Board that the persons qualify for protection under Federal law as persons with disabilities, and that the accommodation is necessary for the County to comply with the Federal law. The applicant shall state the extent of the accommodation that is requested and the manner in which the accommodation may be ended when the persons with disabilities no longer occupy the premises.

11.3 Variances. (Previously Section 9.3)

- a. ~~See definition of a "Variance" in Section 16.~~ **(Referring to the definition is implied in zoning ordinances)** A variance shall only be granted to specific provisions of this Ordinance.
- b. Variance Standards. A variance shall only be granted if the applicant proves to the satisfaction of the Board of **Zoning** Appeals, based upon the written application and testimony that all of the following standards will be met, as applicable:
 - (1) That owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in unnecessary and undue hardship and/or in practical difficulty.
 - (2) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not commonly applicable to other lands or structures in the same district;
 - (3) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
 - (4) That the special conditions and circumstances do not result from the actions of the applicant;
 - (5) That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.
 - (6) That the presence of a ~~non-conforming~~ nonconforming use on neighboring lands and/or of a permitted use in another district shall not by itself be considered grounds for the issuance of a variance.
 - (7) That the granting of the variance will be in harmony with the purposes of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
 - (8) That the Board of **Zoning** Appeals finds that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structures.
- c. Notice of public hearing shall be as provided in **Section 11.2(b).**
- d. A public hearing shall be held on the application. Any party may appear in person, or by agent or by attorney.

- e. The Board of **Zoning Appeals** ~~shall~~ **must make** provide findings that the requirements of this Section ~~9.3 for a variance~~ have been met by the applicant.
- f. Conditions. In granting any variance, the Board of **Zoning Appeals** may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under **Section 16** of this Ordinance.
- g. Under no circumstances shall the Board of **Zoning Appeals** grant a variance to allow a use expressly prohibited by this Ordinance.
- h. Di Minimis Administrative Waivers. The Director of the County Department of Technical and Community Services, or his/her designee shall have authority in writing to grant di minimis waivers to specific individual requirements of this Ordinance in the following instances:
 - (1) The requirement involves an additional setback or provision of a buffer strip adjacent to a particular use, and the owners of record provide a signed and notarized written statement stating that they do not wish that ~~such~~ the additional setback or buffer strip be required along their property. ~~Such~~ The statement shall be filed with the deed of the property that would be buffered, and shall state that successors in ownership do not have a right to ~~such~~ the setback or buffer concerning the subject approved zoning application.
 - (2) The requirement involves a minimum yard for an accessory structure from a lot line, and the owners of record of ~~such~~ the adjoining lot provide a signed and notarized written statement stating that they wish that an alternative and reduced minimum setback be required along their property.
 - (3) The requirement involves a difference of less than five (5%) percent in one certain dimensional requirement and the applicant proves that ~~such~~ the difference is necessary because of a matter that was beyond his/her control, and is necessary to allow a reasonable use of the property.
 - (4) A waiver under this subsection (h) shall not be granted if the applicable County ~~Staff~~ ~~Person~~ determines that ~~such~~ the waiver may have a detrimental impact upon the adjoining ~~neighborhood~~ property(s).
 - (5) Written findings of fact shall be kept in the County files.

11.4 Decisions of the Board of Zoning Appeals. (Previously Section 9.4) In exercising the above mentioned powers, the Board of **Zoning Appeals** may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify this order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning ~~Inspector~~ **Administrator** from whom the appeal is taken.

- a. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, or decision, or determination of the Zoning Inspector Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.
- b. If any application or request is disapproved by the Board, thereafter the Board shall not accept application for substantially the same proposal, on the same premises, until after one (1) year from the date of such the disapproval.
- c. If an appeal to the Board is perfected and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, he/she shall not be precluded from filing another application for substantially the same proposal on the same premises for one year from the date of the withdrawal, provided that all applicable fees are paid for a new appeals application.

SECTION 12
APPEALS FROM THE BOARD OF ZONING APPEALS

Any persons(s) or entity aggrieved by a decision under this Ordinance of the Board of **Zoning Appeals** may seek review by the Circuit Court of such decision, in the manner provided by the laws of Maryland and particularly by ~~Article 66B, Title 2~~ the Land Use Article, Annotated Code of Maryland.

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SECTION 13
DUTIES ON MATTERS OF APPEAL

- 13.1 (Previously Section 11.1)** It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning ~~Inspector~~ Administrator and that questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning ~~Inspector~~ Administrator, and that recourse from the decisions of the Board of Zoning Appeals shall be to the courts as provided by law and particularly by ~~Article 66B, Title 2 the~~ Land Use Article, Annotated Code of Maryland.
- 13.2 (Previously Section 11.2)** It is further the intent of this Ordinance that the duties of the County Commissioners 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 County Commissioners shall have only the duties of:
- a. ~~C~~onsidering adoption or rejection of proposed amendments or the repeal of this Ordinance, as provided by law, and
 - b. ~~O~~f establishing a schedule of fees and charges as stated in **Section 14**, below.

SECTION 14
FEES, CHARGES AND EXPENSES

- 14.1 (Previously Section 12.1)** The County Commissioners shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning certificates, zoning occupancy permits certificates, appeals, variances, special exceptions, amendments, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Department of Technical and Community Services and may be altered or amended only by the County Commissioners.
- 14.2 (Previously Section 12.2)** No certificate, 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 Zoning Appeals unless or until preliminary charges and fees have been paid in full.
- 14.3 (NEW Section)** These fees may include the cost of consulting services of an independent engineer, architect, landscape architect, land planner, or similar service as may be used to assist the County in the review of proposed development and improvement plans.
(Typically, this will not be used unless there is significant development proposal in which the review cannot be handled ‘in-house’)

SECTION 15
AMENDMENTS TO THIS ORDINANCE

- 15.1** The provisions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed by the County Commissioners.
- a. Any proposed amendment, supplement, or change shall be referred by the Board of County Commissioners to the Planning Commission for a review and recommendation. The Planning Commission may require the submission of pertinent data and information by the applicant, may hold one (1) or more public hearings, and shall submit its report and recommendations to the Board of County Commissioners within a reasonable period of time.
 - b. After receiving the recommendations of the Planning Commission, the Board of County Commissioners shall hold a public hearing in relation to the proposed amendment, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time, place, and nature of such the hearing shall be published in a paper of general circulation in the community and in the case of a change in classification of a particular piece of property, said property shall be posted.
 - c. **(This provision addresses a function of the Planning Commission and County Commissioners that occurs as a matter of due course. The provision is not needed).** ~~No change in or departure from the proposed amendment as recommended by the Planning Commission shall be made unless the same be resubmitted to said Planning Commission for its further recommendation. No amendment, supplement, or change shall be made contrary to the recommendations of the Planning Commissioner except by a three-fifths vote of the entire Board of County Commissioners.~~
 - d. **(This provision addresses a function of the Planning Commission and County Commissioners that occurs as a matter of due course. The provision is not needed).** ~~In case, however, of a protest against such change signed by the owners of 20 percent or more of the area of the lots included in such proposed change, or of those either immediately adjacent in the rear thereof extending 175 feet therefrom, or those directly opposite thereto extending 175 feet from the road frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Board of County Commissioners. The provisions relative to public hearings and official notice shall apply equally to all changes and amendments.~~
 - e. Whenever a petition requesting an amendment, supplement, or change has been denied by the Board of County Commissioners, such the petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.
 - f. **(This provision is covered by the Critical Area Ordinance)** ~~When the County submits a request for review and approval of changes to any provision of this ordinance affecting the Critical Area Elements, or the Critical Area maps, the request shall include all relevant information necessary for the Chairman, and, as appropriate, the Commission to evaluate the changes. The Chairman and, as appropriate, the Commission shall then determine if the requests are consistent with the purposes, policies, goals and provisions of the Critical Area Law and all Criteria of the Commission. In accordance with the determination of consistency as outlined above, the Chairman or, as appropriate, the Commission shall:~~
 - 1. Approve the proposed refinement or amendment and notify the local jurisdiction;
 - 2. Deny the proposed refinement or amendment and notify the local jurisdiction;

- ~~3. Approve the proposed refinement or amendment subject to conditions and notify the local jurisdiction;~~
- ~~4. Remand the proposed refinement or amendment to the local jurisdiction with a written list of changes to be made.~~

15.2 Conditional Zoning or Rezoning.

- a. Upon the zoning or rezoning of any land or lands pursuant to the provisions of ~~Article 66B~~ the Land Use Article and of this Ordinance, the Board of County Commissioners may impose ~~such~~ additional restrictions, conditions, or limitations as may be deemed by it appropriate to preserve, improve, or protect the general character and design of the land being zoned or rezoned or of the surrounding or adjacent lands and improvements, and may, upon the zoning or rezoning of any lands retain or reserve the power and authority to approve or disapprove the designs of buildings, construction, landscaping or other improvements, alterations and changes, made or to be made on the subject land or lands to assure conformity with the purposes of applicable State law and this Ordinance.
- b. Procedure. The general procedures as set forth in **Section 15.1** shall apply to conditional rezoning in like manner. The conditions to be ultimately imposed may be originated by the applicant, by the Planning Commission, or by the Board of County Commissioners. However, the published notice of hearing and where appropriate, posted notice of hearing, must include not only the nature of the requested rezoning and the time, place, and date of hearing, but also the general nature and the extent of restrictions, conditions, and limitations imposed upon the zoning or rezoning requested.
 - (1) In the event that the Board of County Commissioners should determine to impose restrictions, conditions, or limitations other than as recommended by the Planning Commission, the matter shall be resubmitted to the Planning Commission for its recommendation, and the provisions of **Section 15.1** shall apply.
 - (2) In the event that any restrictions, conditions, or limitations beyond that contained in the public notice of hearing are sought to be imposed, a new notice, containing ~~such~~ different restrictions, conditions, or limitations shall be published in the same manner as otherwise provided for public hearings, and a new public hearing shall be heard thereon.
- c. Enforcement of Conditions. In the event that ~~such~~ restrictions, conditions, and limitations as herein provided may be imposed upon a zoning or rezoning, of any land, then any violation of ~~such~~ restrictions, conditions, or limitations, shall be deemed a violation of this Ordinance and punishable under this Ordinance.
 - (1) Further, the Board of County Commissioners may in their discretion impose a further condition that a violation of all or any ~~such~~ restrictions, conditions, or limitations may automatically void the zoning or rezoning granted, causing the property involved to revert to its former zoning classification.

- d. Repetitive Applications. An application for reclassification shall not be accepted for filing by the local legislative body if the application is for the reclassification of the whole or any part of land the reclassification of which has been opposed or denied by the County Commissioners on the merits within twelve (12) months from the date of the Commissioner's decision.

15.3 Amending Critical Area Classifications and Buffers.

- a. The County Commissioners may from time to time amend the land use management classification of properties in the "CA-1" Critical Area Overlay District or exempt certain portions of the CA-1 District from all but the setback requirements of **Section 6.2**. In addition, the County Commissioners shall review and propose any necessary amendments, as required, to the land use management classifications in the CA-1 District at least every four (4) years.
- b. All amendments shall be processed as provided in the Somerset County Critical Area Ordinance.

(*The remainder of this section is covered by the Critical Area Ordinance)

- ~~iii. All such amendments shall also be approved by the Maryland Chesapeake Bay Critical Area Commission as established in Section 8-1803 of the Critical Area Law, Subtitle 18, Standards for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18 Section 8-1809 (i). (Note: As of 1996, the Critical Area Commission process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Section 8-1809 (d)).~~

(1) Critical Areas Amendment Procedures.

- ~~iv. Proposed amendments shall first be submitted to the County Commissioners who will then forward such to the Planning Commission for their consideration.~~
 - ~~(i) When a land use management classification amendment, Growth Allocation floating district, or Buffer Exception is requested, the Planning Commission shall first hold a public hearing related thereto, at which parties of interest and citizens shall have an opportunity to be heard.~~
 - ~~(ii) At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County.~~
 - ~~(iii) In addition, the Planning Commission shall post notice of their public hearing on the property(s) for which the amendment is requested, and to the extent possible based on the best available information, notify all property owners immediately contiguous to the applicant of the hearing date, time and place. The Planning Commission shall also furnish these property owners with a copy of the said application.~~
- ~~v. After receiving the recommendations of the Planning Commission, the Board of County Commissioners shall hold a public hearing on the proposed amendments, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County.~~
 - ~~(iv) Amendments and copies of the conceptual site plans or subdivision plats requiring growth allocation will be sent to the Critical Area Commission for their subsequent approval.~~

~~(2) Requirements for Amendments to Critical Areas:~~

- ~~vi. Land Use Management Classification. When proposing a change of land use management classification, such as Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA), other than by changing a land use management classification through granting of the GA Growth Allocation Floating District, the Board of County Commissioners shall not approve amendments unless it is found that there was a mistake in the original classification and that the amendment is approved by the Critical Area Commission.~~
- ~~vii. Buffer Exemption. The County Commissioners may exempt an area proposed for development from the Buffer provisions of the CA-1 District, where the applicant can sufficiently demonstrate that the existing pattern of residential, industrial, commercial, or recreational development in the Critical Area portion of the site prevents the Buffer from performing its function and that the Critical Area Commission has approved the Buffer Exemption. The County will establish a periodic cycle at which buffer exemptions will be heard. At a minimum, in order to grant a Buffer Exemption, the Commissioners shall find that the following conditions exist:
 - ~~(v) Existing development has altered the natural state of the site such that it has more than 50 percent impervious surface and less than 20 percent vegetative cover; or~~
 - ~~(vi) The Buffer area consists of boulders or inert fill that does not and cannot support vegetative growth; or~~
 - ~~(vii) The Buffer area can support less than 50 percent vegetative cover such area cannot provide continuous vegetative cover along the Buffer, and stormwater runoff from the adjacent upland is diverted around the area by existing storm drains.~~
 - ~~(viii) Tidal wetlands on the site provide the same or similar habitat and water quality values as the Buffer.~~~~
- ~~viii. Growth Allocation. The requirements for growth allocation floating district shall be as prescribed in Section 6.15.~~

SECTION 14

PLANNED UNIT DEVELOPMENT OPTION

(‘Planned Unit Development Option’ Section has been moved to Section 6 – Overlay and Floating Zones)

SECTION 16

ENFORCEMENT; PENALTIES FOR VIOLATION

- 16.1** Violations of this Zoning Ordinance shall be an “Infraction,” which shall be civil in nature. The Zoning ~~Inspectors~~ Administrator and ~~Assistant Zoning Inspectors~~ his or her designee shall have the option of enforcing this Ordinance under either the provisions established by ~~Article 66B~~ the Land Use Article of the Annotated Maryland Code, as amended, or under ~~a 1996 amendment to~~ Article 20 of the Public Local Laws of Maryland, as amended.
- 16.2** The following enforcement provisions shall apply under either ~~Article 66B~~ the Land Use Article or Article 20:
- a. The Zoning ~~Inspectors~~ Administrator, his/her ~~assistants~~ designee, the ~~Administrator~~ Director of the Department of Community and Technical Services and ~~such~~ other persons authorized by the County Commissioners to act as Enforcement Officers may serve a citation on any person:
 - (1) Whom they believe is committing or has committed an infraction; or
 - (2) On the basis of an affidavit submitted to the Director of the Somerset County Department of Technical and Community Services (DTCS), citing the facts of the alleged infraction.
 - b. The citation shall contain:
 - (1) The Enforcement Officer’s certification:
 - i. Attesting to the truth of the matter set forth in the citation; or
 - ii. That the citation is based on an affidavit;
 - iii. The name and address of the person charged;
 - iv. The nature of the infraction;
 - v. The location and time that the infraction occurred;
 - vi. The amount of the infraction fine assessed;
 - vii. The manner, location, and time in which the fine may be paid to the county;
 - viii. The person’s right to elect to stand trial for the infraction; and
 - ix. The effect of failing to pay the assessed fine or demand a trial within the prescribed time.
 - c. The Enforcement Officer shall retain a copy of the citation.
 - d. The ~~Administrator~~ Director of ~~the Department of Community and Technical Services~~ DTCS shall have the authority to waive a fine for a citation that was issued erroneously.

16.3 Article 20 Enforcement. The following enforcement provisions shall apply under Article 20 of the Code of Public Local Laws of Maryland:

- a. A fine not to exceed \$1,000 shall be imposed for each infraction. The fine is payable to the county by the person charged in the citation hereafter referred to as 'defendant' within twenty (20) calendar days of service of the citation.
- b. The citation shall be served on the defendant:
 - (1) In accordance with Rule 3-121 of the Maryland Rules; or
 - (2) For real property-related violations, if proof is made by affidavit that good faith efforts to serve the defendant under Rule 3-121(A) of the Maryland Rules have not succeeded, by:
 - i. Regular mail to the defendant's last known address; and
 - ii. Posting of the citation at the property where the infraction has occurred or is occurring, and, if located within the county, at the residence or place of business of the defendant.
- c. Election to stand trial.
 - (1) If a citation is served without a summons (as provided below), the person charged in the citation may elect to stand trial for the infraction by notifying the county in writing of the ~~person's~~ defendant's intent to stand trial. The written notice shall be given at least five (5) days prior to the date of payment as set forth in the citation.
 - (2) Upon receipt of the written notice of the intent to stand trial, the county shall forward a copy of the citation and the written notice (*moved clause from end of sentence) to the District Court having venue.
 - (3) Upon receipt of the citation and the written notice, the District Court shall schedule the case for trial and notify the defendant of the trial date.
- d. If a ~~person~~ defendant charged in a citation fails to pay the fine by the date of payment set forth on the citation and fails to deliver to the county the written notice of intent to stand trial, the person is liable for the assessed fine.
- e. The county may double the fine to an amount not to exceed \$1,000 and request adjudication of the case through the District Court, including the filing of a demand for judgment on affidavit.
- f. The District Court shall promptly schedule the case for trial and summon the defendant to appear.
- g. The defendant's failure to respond to ~~such the~~ summons shall result in the entry of judgment against the defendant in favor of the county in the amount then due if a proper demand for judgment on affidavit has been made.
- h. Summons.
 - (1) An Enforcement Officer may also serve a summons with a citation that requires the ~~person~~ defendant to appear in District Court on a specified date and time.

- (2) The summons shall specify that the ~~person~~ defendant is not required to appear in District Court if the fine is paid as provided in the citation.
 - (3) If approved by the Chief Judge of the Maryland District Court, the citation form may contain the summons.
 - (4) The Enforcement Officer shall coordinate the selection of court dates with the appropriate District Court officials.
- i. If the defendant fails to pay the fine as provided in the citation and fails to appear in District Court as provided in the summons:
 - (1) The county may double the fine to an amount not to exceed \$1,000; and
 - (2) The court may enter judgment against the defendant in the amount then due if the proper demand for judgment on affidavit has been made.
- j. If any person shall be found by the District Court to have committed an infraction:
 - (1) The District Court shall order the ~~person~~ defendant to pay the fine, including any doubling of the fine, not to exceed the limits of this subsection;
 - (2) The fines imposed shall constitute a judgment in favor of the county; and
 - (3) If the fine remains unpaid for thirty (30) days following the date of its entry, the judgment shall be enforceable in the same manner and to the same extent as other civil judgments for money unless the court has suspended or deferred the payment of the fine as provided under subparagraph (2) of this paragraph;
- k. The District Court may suspend or defer the payment of any fine under conditions that the court sets;
- l. The ~~person~~ defendant shall be liable for the costs of the proceedings in the District Court; and
- m. The Court may order the ~~person~~ defendant to abate the infraction or enter an order permitting the county to abate any such infraction at the ~~person's~~ defendant's expense.
- n. If the county abates an infraction pursuant to an order of the District Court, the county shall present the defendant with a bill for the cost of abatement by:
 - (1) Regular mail to the defendant's last known address; or
 - (2) Any other means that are reasonably calculated to bring the bill to the defendant's attention.
- o. If the defendant does not pay the bill within thirty (30) days after presentment, upon a motion of the county, the District Court shall enter a judgment against the defendant for the cost of the abatement.
- p. All fines, penalties, or forfeitures collected by the District Court for an infraction ~~shall~~ must be remitted to the county.
- q. If a defendant fails to pay any fine or cost imposed by the District Court without good cause, the District Court may punish the failure as contempt of court.

- r. Adjudication of an infraction, under this subsection, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.
- s. In any proceeding for an infraction:
 - (1) It shall be the burden of the county to prove that the defendant has committed the infraction by clear and convincing evidence, and in any such proceeding, the District Court shall apply the evidentiary standards as prescribed by law or rule for the trial of civil causes;
 - (2) The District Court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;
 - (3) The defendant shall be entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses in the defendant's own behalf, or to testify in the defendant's own behalf, if the defendant elects to do so;
 - (4) The defendant shall be entitled to be represented by counsel of the defendant's own selection and at the defendant's own expense; and
 - (5) The defendant may enter a plea of guilty or not guilty of the infraction as charged, and the verdict of the District Court shall be guilty of an infraction or not guilty of an infraction, or the District Court may, before rendering judgment, place the defendant on probation.
- t. The court costs in an infraction proceeding in which costs are imposed are five dollars (\$5). A defendant may not be liable for payment to the Criminal Injuries Compensation Fund.
- u. The State's Attorney of the county is authorized to prosecute an infraction and is authorized to enter a Nolle Prosequi in such cases or to place such cases on the Stet Docket.
- v. Notwithstanding the provisions of paragraph ("u") above of this subsection, the county may designate an attorney to prosecute any infraction in the same manner as the State's attorney of the county.

16.4 ~~Article 66B~~ Land Use Article Enforcement. The County may enforce the provisions of this Ordinance under the applicable enforcement provisions of ~~Article 66B~~ the Land Use Article of the Annotated Code of Maryland, as amended, which are hereby included by reference. ~~(Note—As of 1999, such provisions were in Section 7.01 of Article 66B).~~

- a. A fine for violation of this Ordinance shall not exceed \$500, which may be imposed for each violation.
- b. **(Moved from (a.) above to its own section)** Each day ~~such the~~ violation continues shall be considered a separate offense.
- c. The fine shall be payable within twenty (20) calendar days after the receipt of the citation, except the provisions of ~~Article 66B~~ the Land Use Article shall apply if a trial is held.

- d. If a violation is not abated within period of time established on the citation or by the District Court, the County may abate ~~such the~~ violation at the expense of the violator of this Ordinance.

16.5 Nothing contained herein shall prevent the County from taking ~~such~~ other lawful action as it ~~shall~~ determines ~~is~~ necessary to prevent or remedy any violation.

16.6 Special provisions for Critical Area violations.

- a. See the Critical Area Ordinance.

(The following is covered under the Critical Area Ordinance)

- ~~b. In addition to any penalty applicable under State of County law, a person who violates a provision of Natural Resources Article, Title I, subtitle 18, or the County's Critical Area program, ordinance or regulations, is subject to a fine not exceeding \$10,000.~~
- ~~c. In determining the amount of the penalty to be assessed under a) above, the County may consider the following: the gravity of the violation; and willfulness or negligence involved in the violation; the environmental impact of the violation.~~
- ~~d. The County may request assistance from the Attorney General and the Critical Area Commission for enforcement actions.~~

SECTION 17
DEFINITIONS

16.1 Interpretation. For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

- a. The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- b. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- c. The word shall is mandatory, the word may is permissive.
- d. The word used or occupied includes the words intended, designed, or arranged to be used or occupied.
- e. Definitions applicable to terms used in the CA-1 Critical Area District not already contained herein shall be the same as those contained in the Chesapeake Bay Critical Area Criteria, COMAR Section 27.01, as amended.
- f. The word lot includes the words plot or parcel.

16.2 Terms Defined. For the purposes of this Ordinance, the following terms shall have the following meanings:

Accessory Dwelling Unit. (NEW Definition) A separate complete housekeeping unit that is substantially contained within the structure of a single family unit or a commercial structure, but can be isolated from it.

Airport Elevation. (NEW Definition) The highest point of an airport's useable landing area measured in feet above mean sea level.

Airport Hazard. (NEW Definition) Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and COMAR Title 11 *Department of Transportation*, Subtitle 03 *Maryland Aviation Administration*, Chapter 05 *Obstructions to Air Navigation*.

Airport Hazard Area. (NEW Definition) Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance.

Airport Zones: (NEW Definition)

- a. **Approach Surface.** An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach.
- b. **Conical Surface.** An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet.

- c. Horizontal Surface. An imaginary plane one-hundred fifty (150) feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach.
- d. Primary Surface. An imaginary surface longitudinally centered on the runway, extending two-hundred (200) feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- e. Transitional Surface. An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1).

Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adjacent. Adjoining, abutting, contiguous, having a common border.

Adult Use. Shall mean an Adult Bookstore, Adult Movie Theater, Massage Parlor, or Adult Live Entertainment Facility.

- a. Adult Bookstore - A use with a significant portion of the market value of its products offered for sale or rent involving books, films, videotapes, computer software, paraphernalia, novelties, or periodicals distinguished or characterized by a clear emphasis on matter depicting uncovered human genitals or specified sexual activities.
- b. Adult Live Entertainment Facility - A use involving live entertainment involving persons displaying uncovered human genitals or nude female breasts related to some form of monetary compensation paid to the entity operating the use or the person involved in ~~such~~ the activity.
- c. Adult Movie Theater - A use involving the presentation to ~~three~~ (3) or more persons in a room of movies, videotapes, or similar media distinguished by an emphasis on depicting "specified sexual activities" and that is related to monetary compensation paid by persons viewing ~~such~~ the material.
- d. Massage Parlor - An establishment in which persons receive manipulative exercises from another person in private rooms related to monetary compensation by the person receiving the massage and which does not involve massages performed by individuals certified by an established massage therapy accrediting organization or the State as a massage therapist or licensed health care professional.
- e. Specified Sexual Activities - One or more of the following:
 - (1) Human male genitals in a visible state of sexual stimulation.
 - (2) Acts of human masturbation, sexual intercourse, oral sex, or sodomy.
 - (3) Fondling or other erotic touching of human genitals.

Adverse Impact. Any diminishment of non-tidal wetland acreage or function.

Avoid. To refrain from conducting an activity that may adversely impact a non-tidal wetland.

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

Agriculture. The use of land for the purposes of farming, dairying, pasturing, agriculture, horticulture, viticulture, silvaculture, floriculture, fish culture, and animal and poultry husbandry. The processing, packaging or manufacture of agricultural products is not included.

All Weather Surface. As distinguished from a dirt or paved road surface, an all-weather surface is one which sheds a major portion of the rain which falls on its surface, maintains its stability over a period of time, and as further periodically defined by the design standards of the County Roads Department. Tar and chip roads and gravel roads are examples of two (2) types of all-weather surface roads.

Alternative Energy Facilities. Facilities that generate electricity produced by solar, wind, biomass, hydropower, or similar renewable resources.

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

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

~~Article 66B. Article 66B~~ (Moved to 'Land Use Article Definition')

~~BAO. See definitions in Section 6.16.g.~~

Bed and Breakfast Inn. A single family dwelling in which overnight sleeping rooms are rented on a short - term basis to transients. (NEW Definition)

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

Board of Zoning Appeals. An officially constituted body whose duties are to hear and decide appeals, review administrative decisions, grant variances; and determine if special exceptions meet the purpose and requirements of the ordinance concerning a particular use.

Boarding or Lodging House. A dwelling unit or part thereof in which, for compensation, lodging, and meals are provided on a long-term basis to non-transients. (NEW Definition)

Brewery, Farm. A facility that has been issued a Class 8 farm brewery license by the State of Maryland and is located on a farm. (NEW Definition)

Buffer (spelled with a capital B). A naturally vegetated area or vegetated area established or managed to protect aquatic, wetland shoreline, and terrestrial environments from man-made disturbances. In the CA-1 Critical Area District, the minimum Buffer is a continuous area located immediately landward of tidal waters (measured from the Mean High Water Line), tributary streams in the Critical Area, and tidal wetlands and has a minimum width of 100 feet. The Buffer shall be expanded beyond the minimum depth to include certain sensitive areas as per requirements established in the Zoning Ordinance. **(Covered under Critical Area Ordinance – may be confused with vegetative ‘buffer’ otherwise).**

Buffer Exemption Area. The shoreline area located within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of September 10, 1988 that have been mapped Buffer Exemption Areas as shown on the Official Critical Area Maps. **(Covered under Critical Area Ordinance – may be confused with vegetative ‘buffer’ otherwise).**

Buffer Management Plan. A plan designed and intended to describe methods and means used to protect, manipulate and utilize the buffer which provides multiple benefits. **(Covered under Critical Area Ordinance – may be confused with vegetative ‘buffer’ otherwise).**

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

Building Contractor’s Headquarters. An establishment used for the indoor repair, maintenance, or storage of contractor’s vehicles, equipment or materials, and may include the contractor’s business office. **(NEW Definition)**

Building Envelope. The portion of a lot or site that may be disturbed for development.

Building Setback Line. A line measured a front lot line beyond which no building or structure may be erected.

Building or Structure, Height of. The vertical distance from the average finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, the mean height level between eaves and ridge for gable, hip, and gambrel roofs, or the highest point on other structures.

Camp or Campground. Land, buildings, and structures providing campsites for temporary or seasonal overnight occupancy by individuals or recreational vehicles. **(NEW Definition)**

CBCA. Chesapeake Bay Critical Areas Commission.

Cemetery. Land or structures used for burial or permanent storage of the dead or their cremated remains. **(NEW Definition)**

COMAR. The official Code of Maryland Regulations for the State of Maryland.

College or University. Institutions of higher learning that offer courses of general or specialized study and are authorized to grant academic degrees. **(NEW Definition)**

Commercial. Any activity conducted where goods or services are sold or traded with the expectation of profit or gain.

Commercial Raising of Livestock. The (principal or accessory) use of land for the keeping or raising of farm animals including poultry and swine. **(NEW Definition)**

Community Center. A structure, including its surrounding premises, that is owned, leased, or otherwise controlled by a unit of local government or a school district and that contains rooms or other facilities limited to use for purposes of meetings, gatherings, or other functions or activities carried on or performed by or under the supervision of a unit of local government, a school district, or a civic, educational, religious or charitable organization. **(NEW Definition)**

Community Piers. Boat docking facilities associated with subdivision and similar residential areas, and with condominium, apartment, and other multiple-family dwelling units. Private piers are excluded from this definition.

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

Continuing Care Retirement Community. Establishments primarily engaged in providing a range of residential and personal care services with on-site nursing care facilities for:

- a. The elderly and other persons who are unable to fully care for themselves and/or
- b. The elderly and other persons who do not desire to live independently.

Individuals live in a variety of residential settings with meals, housekeeping, social, leisure, and other services available to assist residents in daily living. Assisted living facilities with on-site nursing care facilities are included.

County. Somerset County, Maryland.

County Commissioners. The Board of County Commissioners of Somerset County, Maryland.

Critical Area. All lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

- a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- b. All land and water areas within one-thousand (1,000) feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
- c. Modification to these areas through inclusions or exclusions proposed by Somerset County and approved by the CBCA as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Critical Area Commission. The Maryland Chesapeake Bay Critical Area Commission.

Day Care Center. Facilities providing care, protection, and supervision for more than eight (8) children or adults on a regular basis away from their primary residence for less than twenty-four (24) hours per day. Examples include state-licensed child care centers, preschools, nursery schools, head start programs, after-school programs, and adult day care facilities. **(NEW Definition)**

Day Care Home. A dwelling unit licensed by the State of Maryland in which day care is provided for a maximum of eight (8) children, excluding all natural, adopted, and foster children of the residents of the dwelling unit. **(NEW Definition)**

Deed Restriction. A private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Somerset County. These restrictions or covenants are designed to control the use of specific property and enforcement of these is through private civil action. Deed restrictions are not enforced by Somerset County unless ~~such~~ the deed restrictions were established to meet a County requirement or condition.

Density. The number of dwelling units per acre of gross area of a development tract, unless otherwise specified.

Designated Growth Areas. The incorporated Towns of Crisfield and Princess Anne, any area of the CA-1 Critical Area District that was mapped IDA or LDA in the initial Somerset County Critical Area Program approved by the Critical Area Commission, and major growth centers, community centers and villages as designated in the County Comprehensive Plan, as amended. The designated growth areas in the Comprehensive Plan are as follows:

- a. Major Growth Center - Suburban area of Pocomoke City, Westover
- b. Community Centers - Mt. Vernon, Deal Island, Upper Fairmount, Marion, and Ewell (on Smith Island)
- c. Villages - Chance, Dames Quarter, Oriole, Rumbley, Manokin, Kingston, Rehobeth, and Rhodes Point and Tylerton on Smith Island.

Development or Development Activities. Any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; transportation facilities; or any combination thereof, including the subdivision of land.

Development or Siting Standards. Provisions covering single family residential dwellings, including stick-built, modular, and manufactured housing that are intended to ensure that homes are compatible with the intent of each zoning classification; provide consistency with the character of the neighborhood; recognize the need to allow for affordable and diverse housing types in order to increase the opportunity for home ownership; and ensure proper siting and set-up.

Development Pad. The area of a lot, within a larger overall lot area that is devoted to structures and septic systems. In general, where a development pad is prescribed the remaining area of the lot must be maintained in natural vegetation.

Developed Woodlands. Areas one (1) acre or more in size that predominantly contain trees and natural vegetation and that also include residential, commercial, or industrial structures and uses.

Distillery, Farm. A facility that has been issued a Class one (1) and Class two (2) licenses by the U.S. Department of Commerce, Alcohol and Tobacco Tax and Trade Bureau and is located on a farm. This may include wholesale and retail sales and limited hosting activities consistent with limitations established under State licensing. **(NEW Definition)**

Disturbed Area. The area of a site where natural cover has been removed for construction of buildings, placement of septic systems or share facilities, drives, roads, parking areas, etc. and not replaced.

~~DOE. The State of Maryland Department of the Environment, or its successor agency.~~ **(Now called The Maryland Department of the Environment - 'MDE' – Moved to appropriate placement).**

Drainageways. Minor watercourses that are defined either by soil type or by the presence of intermittent or perennial streams or topography that indicates a swale where surface sheet flows join, including: the land, except where areas are designated as floodplain, on either side of and within fifty (50) feet of the centerline of any intermittent or perennial stream shown on the U.S. Geological Service's 7.5 minute Quadrangle sheets covering the unincorporated areas of Somerset County.

Drive-In or Drive Through Facility. Any use with drive-through windows or lanes or that otherwise offer service to the occupants of motor vehicles. Typical uses include drive-through restaurants and pharmacies. **(NEW Definition)**

DTCS. The Staff of the Somerset County Department of Technical and Community Services, or its successor agency.

Dwelling. Any building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent or room in a hotel or motel.

- a. Dwelling, Single-family. A detached building designed for and used by one (1) “family.”
- b. Dwelling, Two-family. A detached building designed for and used by not more than two (2) “families” in separate dwelling units, with the dwellings not being completely separate.
- c. Dwelling, Semi-detached or “Twin” Dwelling Unit. A one (1) family dwelling unit that is completely separated by a vertical wall from one adjacent dwelling unit, and with a minimum of two (2) total attached dwelling units.
- d. Townhouse. One (1) dwelling unit which is part of a set of three (3) or more attached dwelling units, with each dwelling unit being completely separated by a vertical wall.
- e. Dwelling, Multi-family. A detached building or semi-detached building designed for and used by more than two (2) dwelling units, other than a townhouse.
- f. Dwelling, Accessory Unit (ADU). A separate complete housekeeping unit containing a kitchen on the same parcel as a single family dwelling unit or commercial structure. **(NEW Definition)**

Dwelling, Seasonal. A dwelling occupied for not more than six (6) months of any year.

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Dwelling Unit. A single unit providing complete, independent living facilities for at least one (1) person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. ~~Within the Critical Area a dwelling unit includes living quarters for a domestic or other employee or tenants, an in-law or accessory apartment, a guest house, or a caretaker residence.~~ **(Covered under Critical Area Ordinance).**

Electronic or Digital Sign. Any sign, display, or device that changes its message or copy by programmable electronic or digital processes and displays text by illumination elements in the sign face.

Enhancement. Actions performed to provide additional protection to, or create or improve the functions of, a non-tidal wetland, or other aquatic sites or resources.

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

Environmental Review. ~~A comprehensive review of the maps and documents of the County Chesapeake Bay Critical Area Program. This review is conducted in-house for minor developments actions. The thresholds for those actions are defined within such CBCA Program.~~ **(Covered under Critical Area Ordinance).**

Exemption, Buffer. ~~An act of the County Commissioners, approved by the CBCA Commission, that makes a shoreline area of the County eligible under the Buffer Exemption provisions of the CA-1 Critical Area District.~~ **(Covered under Critical Area Ordinance).**

Family. One (1) or more persons occupying a single housekeeping unit and using common cooking facilities; no ~~such~~ family shall contain over five (5) persons unless all members are related by blood or marriage.

Farm. A lot or parcel of land of over five (5) acres which is used for “agriculture” as defined in this Section.

Farm Labor Camp. A living unit or units used for housing farm employees and their families. **(NEW Definition)**

Farm Structure. A structure which is clearly related to and/or accessory to normal farming operations and “agriculture” use of the parcel of land as defined in this Section.

Fisheries Activities. Commercial water dependent fisheries facilities including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as wholesale and retail sales, product storage

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facilities, crab shedding, off-loading docks, shellfish culture operations, and shore based facilities necessary for aquaculture operations.

Forest. A biological community where at least one-half (1/2) of the land area is covered by tree crown and other woody plant cover or at least two-hundred (200) trees per acre and covering a land area of one (1) acre or more. This also includes forests that have been cut but not cleared.

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

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

Forestry. Activities associated with the growing and harvesting of timber. **(NEW Definition)**

Funeral Home. An establishment providing services related to the death of humans. **(NEW Definition)**

Grandfathered. The term describes the status accorded certain properties and development activities that are of record prior to the date of adoption of this Ordinance or an amendment to this Ordinance.

Group Domiciliary Care Home. ~~A lawful dwelling unit operated by a responsible entity to provide a supportive living arrangement for individuals needing special care because of old age, developmental disability, physical disability, mental illness or other disability protected under applicable Federal law. A facility that is licensed by the Maryland Department of Health and Mental Hygiene shared by persons who are unable to live alone because of age-related impairments or physical, mental, or visual disabilities and who live together as a single housekeeping unit in a long-term, household-like environment in which staff persons provide care, education, and participation in community activities for the residents with a primary goal of enabling the resident to live as independently as possible. Group domiciliary care homes do not include pre-release, work-release, probationary, or other programs that serve as an alternative to incarceration. A Group domiciliary care Home shall not include a 'Treatment Center.'~~

Growth Allocation. Means:

- a. ~~An area of land calculated as 5 percent of the total Resource Conservation Area (excluding tidal wetlands and federally owned land), that the County may convert to more intense management areas to accommodate land development; and/or~~
 - b. ~~An act of the Board of County Commissioners, such as approving the GA Growth Allocation Floating District, which provides for conversion of a property or properties located in a Resource Conservation Area (RCA) and/or the Limited Development Area (LDA) in the CA-1 Critical Area District to which allows an increase in the permitted density/use. Such action is dependent upon the approval of the CBCA Commission.~~
- (Covered under Critical Area Ordinance).**

Habitat Protection. Areas requiring special protection. These areas include habitats of threatened and endangered species and species in need of conservation, and other significant plant and wildlife habitat as designated by the State of Maryland Department of Natural Resources. ~~and approved via the specified hearing process and anadromous fish propagation waters, the 100 foot Buffer and Non tidal wetlands.~~ **(the second piece is covered under Critical Area Ordinance).**

~~Habitat Protection Area (HPA). The Buffer, Non Tidal Wetlands, Threatened and Endangered Species, Plant and Wildlife Habitats, Anadromous Fish Spawning Propagation Waters and Species in Need of Conservation, i.e. colonial nesting waters, historic waterfowl staging and concentration areas, habitat of local significance, as defined in the County Critical Area Program.~~ **(Covered under Critical Area Ordinance).**

Highly Erodible Soils. Soils with a slope greater than fifteen (15%) percent; or those soils with a “K” value greater than 0.35 with slopes greater than five (5%) percent. “K value” means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

Home Occupation. An occupation or business conducted principally by members of a family residing on the premises and by a specified number of additional persons (where applicable), and conducted within the dwelling or a secondary structure. ~~See standards in Section 5.8.~~

Hospital. A building or group of buildings, having room facilities for one (1) or more abiding patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, outpatient department, training facilities, central service facilities, and staff offices; providing, however, that ~~such~~ related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

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

Hunting and Fishing Cabin. A building used for short periods of time solely for recreational purposes and not connected to public utilities. No cabin shall be considered a dwelling. **(NEW Definition)**

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

IDA. Intensely developed areas, ~~as designated under Section 6.13.~~

Immediate Family. Father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter, step-children, or step parents.

Indoor Plant Cultivation (Greenhouses and Nurseries). Facilities used for the propagation and sale of agricultural or ornamental plants and related products. A retail nursery/greenhouse offers products to the general public including plant materials, planter boxes, fertilizer, sprays, garden tools, and related items. A wholesale nursery/greenhouse raises nursery stock for sale to retail nurseries or other businesses. These uses may include buildings or structures and the associated premises used to grow plants under roof including accessory storage and processing of plants grown on premises. Included in this category are hydroponic facilities. A private greenhouse with no commercial sales is considered an accessory use. **(NEW Definition)**

Infill. Infill development, or odd-lot development, is the development of new housing, or other buildings on scattered vacant sites in a built-up area.

Junk Yard. An area outside of an enclosed commercial or industrial building that is used for the abandonment, sale, storage, collecting, or baling of paper, rags, scrap metals, unusable machinery, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, salvaging or sale for parts of three (3) or more motor vehicles not in running condition, or parts thereof.

Kenel. The keeping of fifteen (15) or more dogs and cats over age four (4) months in age.

Land Clearing. Any activity that removes the vegetative ground cover.

Land Use Article. of the Annotated Code of Maryland, as amended, which primarily addresses community planning and development regulation matters, or its successor legislation. **(Moved from Article 66B)**

LDA. Limited development areas, as designated under Section 6.13.

Library. A collection of books, periodicals, manuscripts, and similar materials for free public lending, studying and reading. **(NEW Definition)**

Lot. For zoning purposes, as covered by this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. ~~Such~~ The lot shall have a frontage on a road; however, existing lots of record and one (1) new individual lot may be served by right-of-ways with a minimum width of twenty (20) feet. A lot may consist of:

- a. A single lot of record; or
- b. A combination of complete lots of records.

Lot Depth. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

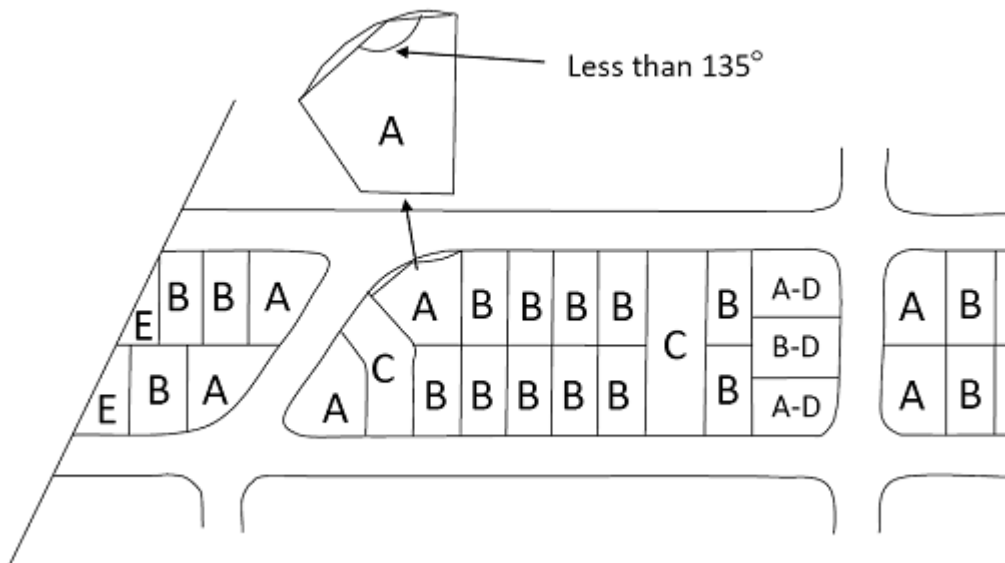
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Lot Frontage. The front of a lot shall be construed to be the portion nearest the road. For the purpose of determining yard requirements of corner lots and through lots, all sides of a lot adjacent to roads shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

Lot Line. The property boundary of a lot, or a street right-of-way line where a lot abuts a street.

Lot of Record. A lot which is part of a subdivision recorded in the office of the Clerk of Circuit Court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types. The following diagram illustrates corner lots (A), interior lots (B) and through lots (C).



In the diagram above, A = corner lot, defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one-hundred thirty-five (135°) degrees. See lots marked A(1) in diagram.

B = interior lot, defined as a lot other than a corner lot with only one (1) frontage on a street other than an alley.

C = through lot, defined as a lot other than a corner lot with frontage on more than one (1) street other than an alley. Through lots with frontage on two (2) streets may be referred to as double frontage lots.

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D = reversed frontage lot, defined as a lot to which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot (see A-D and B-D in the diagram).

Corner Lot - A lot located at the intersection of two (2) or more roads. A lot abutting on a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one-hundred thirty-five (135°) degrees. ~~See Section 6.6.~~

Interior lot - A lot other than a corner lot with only one (1) frontage on a road other than an alley.

Through lot - A lot other than a corner lot with frontage on more than one (1) road other than an alley. These are also known as double frontage lots.

Lot Width. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however that width between side lot lines at their foremost points (where they intersect with the road line) shall not be less than eighty (80%) percent of the required lot width, except in the case of lots on the turning circle of cul-de-sac, where the eighty (80%) percent requirement shall not apply.

Manufactured Home. A residential dwelling designed to be a permanent residence that was fabricated in an off-site manufacturing facility in accordance with the Federal Manufactured Home Construction and Safety Standards (HUD Code).

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

MDE. The State of Maryland Department of the Environment, or its successor agency. **(Moved from 'DOE' definition).**

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

Microbrewery - An establishment that possesses appropriate licenses from the State of Maryland where beer and malt beverages are made on the premises and then sold or distributed. The category includes small microbreweries which produces less than 15,000 barrels (a barrel is approximately thirty-one (31) gallons) of beer per year and large microbreweries where beer and malt beverages are made on the premises at an annual beer production rate of over 15,000 barrels. Also included in this category are brewpubs where beer and malt beverages are made on the premises in conjunction with a restaurant or bar and where forty (40%) percent or more of the beer produced on site is sold on site. Brewpubs may include beer to go and beverages are made on the premises at an annual beer production rate of over 15,000 barrels. This category also includes tap rooms which are rooms ancillary to the production of beer at a microbrewery, brewpub, or large brewery where the public can purchase and /or consume only the beer produced on site. **(NEW Definition)**

Mixed-Use Building. A building that contains a combination of uses such as residential and commercial. **(NEW Definition)**

Mobile Home. A residential dwelling designed to be a permanent residence that was fabricated in an off-site manufacturing facility prior to Federal Home Construction and Safety Standards (HUD Code) and towed to a site in one (1) or two (2) substantial pieces and which is not designed to be supported by a conventional perimeter foundation. This definition shall apply regardless of whether a dwelling is still mobile.

Mobile or Manufactured Home Park. A lot designed to accommodate two (2) or more manufactured/mobile homes, which is planned and developed in accordance with the provisions contained in **Section 5.8.**

Mobile or Manufactured Home Space. A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

Mobile or Manufactured Home Subdivision. A site designed to accommodate mobile/manufactured homes permitted under **Section 5** under the same lot and improvement requirements as a subdivision of site built single family detached dwellings in the district in which the site is located.

Modular Home. A residential dwelling designed to be a permanent residence that was fabricated in an off-site manufacturing facility to meet local building code standards.

Motel. See Hotel.

Minimize. To reduce the adverse impacts to non-tidal wetlands to the greatest practicable and reasonable degree.

Mitigation. Creation, restoration, or enhancement of non-tidal wetlands, that were or will be lost due to regulated or agriculture activities.

Museum or Cultural Facility. A building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited. **(NEW Definition)**

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

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

Nonconforming Lot. A lot, which is held in single and separate ownership at the effective date of this ordinance or any amendment thereto which renders the lot nonconforming, which is not of the required minimum area, width at the road line, width at the building line or any combination of these requirements for the use and the district in which it is located.

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Nonconforming Structure. A structure or part of a structure manifestly not designed to comply with the applicable use provisions in this ordinance or amendment thereto with respect to height, size, lot coverage, location on the lot, or other features, where ~~such the~~ structure lawfully existed prior to the enactment of this ordinance or amendment thereto. ~~Such Nonconforming~~ structures include, but are not limited to, nonconforming signs.

Nonconforming Use. A use whether of land or of a structure which does not comply with the applicable use provisions of this ordinance or amendment there to, where ~~such the~~ use was lawfully in existence prior to the enactment of this ordinance or amendment thereto.

Nonconformity. Any variation from use, area, bulk, location, or other requirements of this ordinance which exists legally on the effective date of this ordinance or amendment thereto.

Non-tidal Wetlands. An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and is determined according to the appropriate Corps of Engineers Wetland Delineation Manual.

Offsets. Structures or actions that compensate for undesirable impacts.

Open Space, Preserved. Undeveloped land used primarily for agricultural or forestry conservation or active or passive non-commercial recreation purposes. Preserved ~~Open Space~~ used to meet a requirement of this Ordinance shall be protected in perpetuity by a conservation easement or deed restriction in form acceptable to the Planning Commission.

- a. Preserved open space shall be not be used for the construction of buildings, except for customary agricultural or non-commercial recreation buildings permitted under the terms of a conservation easement or deed restriction.
- b. Areas with a width of less than fifty (50) feet ~~or that include less than 2 contiguous acres~~ shall not be used to meet ~~Preserved Open Space~~ requirements.
- c. Stormwater detention basins shall not be used to meet ~~Preserved Open Space~~ requirements unless the applicant proves to the Planning Commission that the area would be suitable for recreation during most times of the year and/or serve as a scenic asset (such as a scenic retention pond).
- d. Areas within twenty-five (25) feet of an existing or proposed building shall not be considered ~~Preserved Open Space~~, except for agricultural or non-commercial recreation buildings permitted under the County approval.

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

Ordinance, This. The Somerset County Zoning Ordinance, as amended.

Outdoor Advertising Business. Provision for outdoor displays or display space on a lease or rental basis only.

Pad Development. The area of a lot, within a larger overall lot area that is devoted to structures and septic systems. In general, where a development pad is prescribed the remaining area of the lot must be maintained in natural vegetation.

Parks and Recreation. Recreational, social, or multi-purpose uses associated with public parks and open spaces, including playgrounds, play fields, play courts, swimming pools, community centers and other facilities typically associated with public parks and open space areas. Also includes public and private golf courses and country clubs. **(NEW Definition)**

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

Place of Worship; Religious Assembly. Religious services involving public assembly that customarily occur in churches, synagogues, temples, mosques, and other facilities used for religious worship. This category includes buildings and all customary accessory uses or structures, including but not limited to: a chapel, day-care center, school of general instruction, gymnasium, social hall, and social services programs. Accessory uses include a monastery or convent. **(NEW Definition)**

~~Planned Urban Development. See Section 14.1.~~ **(There are no references to a planned 'urban' development anywhere else in the ordinance)**

Planning Commission. The Planning and Zoning Commission of Somerset County.

Private Clubs and Lodge. Any building which serves as a meeting place for a selected membership, together with recreation and dining facilities which are not open to the general public.

~~PUD. See Section 14.1.~~ Planned Unit Development (PUD). An area of land developed as a single entity, in approved phases, which is totally planned to provide for a variety of residential, commercial, and related uses, as well as common areas or open space. The purpose of this provision is to encourage well-designed, larger scale developments which provide a balanced mix of land uses, including a variety of housing types and commercial uses, within a planned environment in accordance with the goals of the Comprehensive Plan. It is designed to allow for flexibility of design and innovative techniques, as well as to provide a high degree of environmental protection. This is accomplished by providing a simplified mechanism for review and approval of the project, while maintaining adequate standards and safeguards. A ~~PUD~~ Planned Unit Development is not mapped which allows for increased flexibility in appropriate locations where necessary infrastructure and services are accessible.

RCA. Resource Conservation Areas, ~~as designated under Section 6.13.~~

Recreational Camp or Resort. Any area of land or water on which accommodations for temporary occupancy are located or may be placed, including hotels, cabins, and tents, and which is primarily used for recreational purposes and retains an open air or natural character.

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Recreational Vehicle. Any vehicle or portable structure designed for temporary occupancy; or which contains holding tanks for waste disposal, or can operate independently of sewer water and electrical systems; including recreational vehicles such as travel trailers, pickup campers, bus campers, tent campers, or other temporary vehicles, which require installation to utility systems.

~~Recreational Vehicle Parks. Any site designed to accommodate 2 or more occupied recreational vehicles planned and developed in accordance with the provisions contained in Section 5.1.~~ **(Falls under definition of ‘Camp or Campground’)**

Redevelopment. The process of developing land that is or has been developed.

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

Relative. Persons who are related by blood, marriage, adoption, or formal foster relationship to result in one (1) of the following relationships: spouse, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, parent-in-law, or first cousin. A relative shall include closely similar “step” relationships, such as step-son.

Residential District. Shall mean the R-1, R-2, and R-3 zoning districts.

~~Revised Buffer. Often called a modified Buffer, refers to a Buffer line that has received an administrative variance.~~ **(Covered under the Critical Area Ordinance)**

Road. A public or private right-of-way fifty (50) feet or more in width, or any public or private right-of-way thirty (30) or more feet in width which existed prior to the enactment of this Ordinance. The term shall include road, avenue, drive, circle, highway, or other similar terms which provide a public means of access to abutting property.

Road Line. The right-of-way line of a road.

Roadside Stand. A structure used for the roadside display or sale of agricultural or other related products.

Sanitary Landfill. A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each days’ operation, or at such more frequent intervals as may be necessary.

Self-Storage Facility. An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses. Facilities are designated to accommodate only interior access to storage lockers or drive-up access only from regular size passenger vehicles and two (2) - axle non-commercial vehicles. **(NEW Definition)**

Shoreline Erosion Control Measures. Any of number of structural and nonstructural methods or techniques for controlling the erosion of shoreline areas. More specifically, the term refers to:

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- a. Nonstructural. Creation of an intertidal marsh fringe channel-ward of the existing bank by one (1) of the following methods:
 - (1) Vegetation. Planting an existing shore with a wide band of vegetation;
 - (2) Bank Sloping/Vegetation. Sloping and planting a non-wooded bank to manage tidal water contact, using structures to contain sloped materials if necessary; and
 - (3) Contained Beach. Filling along shore with sandy materials, grading, and containing the new beach to eliminate tidal water contact with the bank.
- b. Structural Erosion Control.
 - (1) Revetment. Facing laid on a sloping shore to reduce wave energy and contain shore materials;
 - (2) Bulkhead. Excluded due to adverse impacts to the near shore marine environment, except in the following special cases:
 - i. Where erosion impact is severe and high bluffs and/or dense woodland preclude land access, bulkheads can be installed by shallow draft barge and pile driver; and
 - ii. In narrow, manmade lagoons for activities that require frequent interchange between boats and land.

Sign. Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located, provided that the following shall not be included in the application of the regulations herein:

- a. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers; names of occupants of premises not having commercial connotations;
- b. Flags and insignias of any government except when displayed in connection with commercial promotion;
- c. Legal notices; identification, information, or directional signs erected or required by governmental bodies;
- d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
- e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Signs. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Sign Area. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter ~~shall~~ is not permitted to be included in computation of surface area.

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Sign, On-Site. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, Off-Site. A sign other than an on-site sign.

Significant Shoreline Erosion. An annual rate of erosion of two (2) feet or greater.

Slaughterhouse or Stockyard. A site where livestock is stored and butchered for food.

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

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

Solar Energy System, Medium. A ground or roof-mounted solar energy system with a rated capacity of no more than two (2) megawatts (MW) of alternating current (AC) and serving, or designed to serve, any agricultural, commercial, institutional, or industrial use on a single lot or parcel.

Solar Energy System, Small. A solar energy system with a rated capacity of no more than 999 kilowatts (kw) of alternating current (AC) and serving, or designed to serve, any residential use on a single lot or parcel. Individual photovoltaic cells or small groups of cells attached to and used to either directly power, or charge a battery which does so, and individual device such as a light fixture, fence charger, radio or water pump shall not be considered a small energy system as defined herein and may be used in any zoning district without regard to lot or setback requirements.

Solar Energy System, Utility. A ground-mounted solar energy system with a rated capacity of more than two (2) megawatts (MW) of alternating current (AC) whose principal purpose is to provide electrical power for sale to the general power grid.

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

Special Exception. A special exception is a use that would not be appropriate generally or without restriction throughout the district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in districts as Special Exceptions, if specific provisions for such special exceptions are made in this Zoning Ordinance.

Stable. Commercial or accessory structure and/or places where horses, mules, donkeys, or ponies are kept for riding, driving or stabling for compensation. **(NEW Definition)**

Steep Slopes. Slopes of fifteen (15%) percent or greater incline.

Stick-Built Home. A residential dwelling designed to be a permanent residence, built on-site but which may include minor pre-engineered components that meets local building code standards.

Street. Shall mean the same as ‘Road.’

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures include but are not limited to: buildings, mobile homes, walls, and billboards. The following features shall not be regulated as a structure for the purposes of this Ordinance: fences and satellite dishes.

Substantially Complete. The definition in the latest version of the ~~BOCA~~ International Building Code (IBC) and International Residential Code (IRC) shall apply. **(BOCA was replaced by the IBC and IRC- International Residential Code. BOCA is an old term for the building code)**

Tidal Wetlands. State wetlands that are defined as any land under the navigable waters of the State below the Mean High Water Line, affected by the regular rise and fall of tide, and private wetlands defined as any land not considered “State wetlands” bordering or lying beneath tidal waters, that is subject to regular or periodic tidal action and supports aquatic growth. Private wetlands includes wetlands transferred by the State by a valid grant, lease, patent, or grant confirmed by Article 5 of the Declaration of Rights of the Constitution to the extent of the interest transferred. The term ‘regular or periodic tidal action’ means the rise and fall of the sea produced by the attraction of the sun and moon uninfluenced by the wind or any other circumstance.

Timber Harvest Plan. A plan designed to detail the commercial harvesting by cutting and removing of tree stems from a site for commercial purposes. These plans need to be prepared by a registered forester or landscape architect.

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

Trade School. Uses in an enclosed building that focus on teaching the skills needed to perform a particular job. Examples include schools of cosmetology, computer training facilities, vocational schools, administrative business training facilities, and similar uses but not including truck driving schools. **(NEW Definition)**

Treatment Center. A use (other than a prison or hospital) providing housing for three (3) or more unrelated persons who need specialized housing, treatment, and/or counseling because of:

- a. Past criminal activity, such as a criminal halfway house;
- b. Current addiction to alcohol or a controlled substance that was used in an illegal manner; and/or
- c. A type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.

~~See standards in Section 5.8.~~

Tributary Streams. Perennial and intermittent streams in the Critical Area that are so noted on the most recent U.S. Geological Survey 7 1/2 minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the local jurisdictions. Water dependent facilities - Structures or works associated with industrial, maritime, recreation, education, or fisheries activities. ~~which Somerset County has determined require location at or near the shoreline within the Buffer and as specified in the County Critical Area Program.~~

Trucking Terminal. Facilities engaged in the dispatching and storage of trucks, buses, and other vehicles, including parcel service delivery vehicles, taxis, and limousines. Minor repair, maintenance, and training is also included. **(NEW Definition)**

Tunnel Ventilation Fan. A series of exhaust fans, usually forty-eight (48) inches or greater in diameter, that are located at one (1) end of a poultry house. Outdoor air is drawn into the poultry house either through sidewall air inlets (transitional ventilation) or tunnel inlets located at the opposite end of the house from the tunnel ventilation fans. The primary function of these fans is to operate in stages as a means of keeping birds comfortable through increased cooling by high air velocity.

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

Variance. A variance is a relaxation of the terms of the zoning ordinance where such the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship, or outside the Critical Area, in practical difficulty. As used in this ordinance a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the districts or adjoining districts.

Vehicle Repair, Commercial. Uses, excluding vehicle paint finishing shops, that repair, install or maintain the mechanical components, or the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft, watercraft, or similar large vehicles, and vehicular equipment. Includes truck stops and truck fueling facilities.

Vehicle Repair, Personal. Uses engaged in repairing, installing, or maintaining the mechanical components of autos, small trucks or vans, motorcycles, motor homes or recreational vehicles including recreational boats. Also includes uses that wash, clean, or otherwise protect the exterior or interior surfaces of these vehicles. Does not include vehicle body or paint finishing shops.

Wetland, Non-Tidal. See Non-Tidal Wetlands in this section.

Wetland, Tidal. As defined by applicable State regulations.

Wholesale Sales. Uses engaged in wholesale sales, bulk storage, and distribution of goods which may also include incidental retail sales and wholesale showrooms. **(NEW Definition)**

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

Wind Energy System, Small. As an accessory use and as further defined: **(Taken directly from Wind Energy System Ordinance)**

- a. Off Grid System: A Small Wind Energy System that is not connected to the main power grid with the capability of transporting energy back to a commercial power provider.
- b. Small Wind Energy System: A single towered wind energy conversion system that is used to generate electricity and which has a total height of one-hundred sixty (160) feet or less. The equipment includes, but is not limited to any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire, or other component used in the system.
- c. Wind Energy System Owner: The individual or ownership entity that owns, or intends to own, the real property upon which a Small Wind Energy System will be operated in accordance with this Section.
- d. Wind Generator: The blades and associated mechanical and electrical conversion components.
- e. Wind Tower: The monopole, freestanding or guyed structure that supports a wind generator.

Yard. A required open space unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward provided; however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

Yard, Front. A yard extending between side lot lines across the front of a lot.

- a. In any required front yard, no fence or wall shall be permitted which materially impedes vision across ~~such~~ the yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across ~~such~~ the yard between the heights of thirty (30) inches and ten (10) feet.
- b. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one (1) of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the ~~zoning inspector~~ Zoning Administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.
- c. In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of one-half (1/2) the depth required generally for front yards in the district shall be provided on the other frontage. In the case of corner lots with more than two (2) frontages, the Zoning ~~Inspector~~ Administrator shall determine the front yard requirements, subject to the following limitations: (a) at least one (1) front yard shall be provided having the full

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depth required generally in the district, (b) no other front yard on ~~such~~ the lot shall have less than one-half (1/2) the full depth required generally.

- d. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at road intersections, shall be assumed to be the point at which the side and front lot lines would have met without ~~such~~ rounding. Front and rear front yard lines shall be parallel.

Yard, Side. A yard extending from the rear line of the required front yard to the rear lot line.

- a. In the case of through lots, side yards shall extend from the rear lines to the front yards required. In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of one-half (1/2) the depth required generally for front yards in the district shall be provided on the other frontage.
- b. In the case of corner lots with more than two (2) frontages, the Zoning ~~Inspector~~ Administrator shall determine the front yard requirements, subject to the following limitations: (a) at least one (1) front yard shall be provided having the full depth required generally in the district, (b) no other front yard on ~~such~~ the lot shall have less than half (1/2) the full depth required generally.
- c. Width of required side yards shall be measured at right angles to a straight line adjoining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lot and reversed frontage corner lots, there will be no rear yard.

- a. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard.
- b. Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.

Zoning ~~Inspector~~ Administrator. The County staff-person appointed to administer and enforce the provisions of this Ordinance, and any designated assistants and other staff-persons who may be designated by the Director of the Department of Technical and Community Services.

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This index is intended to assist persons using this Ordinance, but is not intended to be all-inclusive.

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