BOARD OF COUNTY COMMISSIONERS

FOR SOMERSET COUNTY, MARYLAND

ORDINANCE NO. 1212

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE SOMERSET COUNTY ZONING ORDINANCE THAT PERTAIN TO SOLAR ENERGY GENERATING SYSTEMS, ENERGY STORAGE DEVICES, PUBLIC HEARING REQUIREMENTS, AND SPECIAL EVENTS.

WHEREAS, the Somerset County Zoning Ordinance (Ordinance #1206) was adopted by the County Commissioners of Somerset County and became effective on February 25, 2025; and

WHEREAS, the County Commissioners of Somerset County have deemed it necessary for the purpose of promoting the health, safety, and general welfare of Somerset County, to amend certain provisions of the previously-adopted Zoning Ordinance from time to time; and

WHEREAS, the County Commissioners of Somerset County have received a favorable recommendation from the Somerset County Planning Commission to amend the text of Section 5.7 Table of Uses, Section 5.8 Supplemental Use Regulations, Section 7 Overlay and Floating Districts, Public Hearing Requirements in Sections 10, 11 and 15, and Section 17 Definitions; and

WHEREAS, the County Commissioners for Somerset County duly advertised these proposed amendments and conducted a public hearing on Tuesday, June 17, 2025, and offered any interested party the opportunity to submit written comments for ten (10) days after the public hearing.

NOW, THEREFORE, the County Commissioners for Somerset County do hereby amend Section 5.7 Table of Uses, Section 5.8 Supplemental Use Regulations, Section 7 Overlay and Floating Districts, Public Hearing Requirements in Sections 10, 11 and 15, and Section 17 Definitions of the Zoning Ordinance to read as follows on Exhibit A "Summary of Zoning Code Changes":

This Ordinance shall become effective 10 days from the adopted date.

RECEIVED
JUL 03 2025
BY: SPR

ADOPTED THIS 1st **day of** July **2025.**

ATTESTED BY:

Sharon K. Muir
Sharon K. Muir,
Internal Auditor

BOARD OF COUNTY COMMISSIONERS
FOR SOMERSET COUNTY, MARYLAND

Charles Laird, President

Randy Laird, Vice President

Craig N. Mathies, Sr.

Eldon Willing

Darryl Webster

EXHIBIT A

"Summary of Zoning Code Changes"

- **Page 3 – Table of Contents** – Removal of Section 7.5 – SEF Zone Section
- **Page 14 – Zoning Districts** – Removal of Section 5.1c(3) – SEF Zone Enumeration
- **Page 17 – Zoning Districts** – Removal of Section 5.2c(3) – SEF Zone Purpose
- **Page 34 – Table of Uses** – 5.7(e) Industrial Uses – New language for Solar Energy Generation Station and usage in each zoning district
- **Page 34 – Table of Uses** – 5.7(e) Industrial Uses – New categories for Solar Energy Generation Station
- **Page 35 – Table of Uses** – 5.7(f) Miscellaneous Uses – Addition of Special Events have the Zoning Code concur with the Critical Area Ordinance
- **Page 37 – Table of Uses** – 5.7(g) Accessory Uses - Redefine Accessory Solar Energy Generation Station and addition of Energy Storage Device
- **Page 45 – Supplemental Use Regulations** – Addition of 5.8(g)6(7) Clarifying language for the placement of mobile/manufactured homes for concurrence with Building Code
- **Page 52 – Supplemental Use Regulations** – Add 5.8(k) Solar Energy Generation Station, formerly Medium Solar Energy Facility
- **Page 61 – Supplemental Use Regulations** – Addition of 5.8(o) Energy Storage Device
- **Page 87 – Overlay and Floating Districts** – Removal of Section 7.5 – Utility Scale Solar Energy Facility Floating Zone (SEF)
- **Page 93 – Overlay and Floating Districts** – Renumeration of 7.5 & 7.6 following SEF zone deletion
- **Page 130, 132, & 139 Public Hearing Procedures** – Rewording to include the ability to post on the County Website and utilize other mass-media options.
- **Page 146 – Section 17 Definitions** – Addition of Agrivoltaics, Baseline Annual Usage, Certificate of Public Convenience and Necessity (CPCN), LMI Subscriber, Project Area, Public Service Commission of Maryland (PSC), Solar Energy Generation Station, Solar Energy Generation Station Accessory, Solar Energy Generation Station Community, Solar Energy Generation Station Utility, Special Event, and Subscriber

SOMERSET COUNTY ZONING ORDINANCE

Somerset County, Maryland

Recommended by the Somerset County Planning and Zoning Commission on May 27, 2025

Adopted by the Somerset County Board of County Commissioners on July 1, 2025

The Effective date of this Ordinance #1212 shall be July 1, 2025

Previously Adopted Version: February 25, 2025

CONTENTS

PAGE

ORDINANCE ESTABLISHED

SECTION 1 ESTABLISHMENT OF DISTRICTS 5
- 1.1 Title 5
- 1.2 Authority 5
- 1.3 Purpose 5
- 1.4 Applicability 5
- 1.5 Conformity with Ordinance Provisions 5-6
- 1.6 Interpretation of Provisions 6
- 1.7 Severability 6
- 1.8 Zoning Maps 6
- 1.9 Replacement of Zoning Maps 6-7
- 1.10 Critical Area Maps 7
- 1.11 Changes to Critical Area Maps 7

SECTION 2 INTERPRETATION OF DISTRICT BOUNDARIES 8

SECTION 3 APPLICATION OF DISTRICT REGULATIONS 9

SECTION 4 NONCONFORMITIES 10
- 4.1 Purposes 10
- 4.2 Nonconforming Lots of Record; Critical Area District 10
- 4.3 Nonconforming Uses 10-11
- 4.4 Nonconforming Structures 11-12
- 4.5 Conditions 12
- 4.6 Elimination of Certain Nonconformities 12
- 4.7 Repairs and Maintenance 12
- 4.8 Special Exception Uses are Not Nonconforming Uses 12
- 4.9 Nonconforming Yards and Lot Area 12-13

SECTION 5 ZONING DISTRICTS 14
- 5.1 Enumeration of Districts 14
- 5.2 Purposes of Each Zoning District 14-17
- 5.3 Uses Permitted in Each Zoning District 17
- 5.4 Similar Uses and Uses Not Addressed by this Ordinance 17
- 5.5 Accessory Uses Regulations 18
- 5.6 Temporary Uses 18
- 5.7 Permitted Uses in Each Zoning District 19
  - a. Agricultural Uses 19-20
  - b. Residential Uses 21-22
  - c. Public or Institutional Uses 23-25
  - d. Commercial Uses 26-30
  - e. Industrial Uses 31-34
  - f. Miscellaneous Uses 35
  - g. Accessory Uses 36-37
- 5.8 Supplemental Use Regulations - Additional Requirements for Specific Uses 38-60

PAGE

5.9 Additional Requirements in the "AP" Zoning District 61
5.10 Accessory Dwelling Units.... 61-62
5.11 Portable Storage Containers, Roll-Off Trash Containers.... 62-63
5.12 Farm Breweries, Distilleries, and Wineries 63-64
5.13 Recreational Vehicle, Travel Trailer, or Tent as a Temporary Residence....65

SECTION 6 BULK REGULATIONS....66
6.1 Lot Requirements 66-67
6.2 Table of Height, Area, and Dimensional Standards, other than Attached Housing....68
6.3 Height Regulations.... 68-69
6.4 Corner Lots....69
6.5 Reduction of Front Yard; Corner Lots 69
6.6 Yard Setback Modification 69
6.7 Visibility at Intersections 69-70
6.8 Accessory Structures....70
6.9 Standards for Attached Housing 71-72
6.10 Cluster Development Option.... 72-74

SECTION 7 OVERLAY AND FLOATING DISTRICTS....75
7.1 Airport Overlay District (AP) 75-77
7.2 O-C Overlay Commercial District 77-78
7.3 Critical Area Overlay District (CA-1)....78
7.4 Planned Unit Development Floating Zone.... 78-85
7.5 Growth Allocation Floating District (GA)....86
7.6 Procedure for Floating Zone District Approval 86-87

SECTION 8 GENERAL REGULATIONS....88
8.1 Off-Street Loading 88
8.2 Off-Street Parking 88-93
8.3 Parking of Recreational Vehicles and Equipment as an accessory to a residence....93
8.4 Essential Services.... 93-94
8.5 Waterfront Development Requirements....94
8.6 On-Site Signs.... 94-96
8.7 Off-Site Signs.... 96-97
8.8 Permitted Signs in All Districts.... 97-98
8.9 Landscaping Standards.... 99-100
8.10 Minimum Landscaping Materials 100-101
8.11 Alternative Planting Schemes 101-102
8.12 Landscaping of Parking Facilities.... 102-103
8.13 Screening and Fencing Requirements....103
8.14 Lighting Standards 103-104
8.15 Site Plans.... 104-108
8.16 Optional Transfer of Development Rights.... 108-112
8.17 Stream Buffers....112

PAGE

8.18 Rare, Threatened and Endangered Species Habitats 112-113
See also the following separate County Ordinances: Floodplain Ordinance, Subdivision Ordinance, Forest Conservation Ordinance, Erosion Control Ordinance, and Stormwater Ordinance.

SECTION 9 ADMINISTRATION AND ENFORCEMENT 114
9.1 Administration and Enforcement 114
9.2 Administrative Variances 115-117
9.3 Violations 117
9.4 Complaints and Investigations of Violations 118
9.5 Zoning Certificate Required 118-119
9.6 Application for Zoning Certificate 119
9.7 Zoning Occupancy Permits for New, Altered, or Nonconforming Uses 119-120
9.8 Time Limits on Zoning Approvals and Permits 120
9.9 Construction and Use to be Consistent with Applications and Approvals 120-121

SECTION 10 BOARD OF ZONING APPEALS: PROCEDURE 122
10.1 Proceedings of the Board of Zoning Appeals 122
10.2 Board Hearings, Appeals, Notices 122
10.3 Stay of Proceedings 122-123

SECTION 11 THE BOARD OF ZONING APPEALS: POWERS AND DUTIES 124
11.1 Administrative Review 124
11.2 Special Exceptions 124-125
11.3 Variances 125-127
11.4 Decisions of the Board of Zoning Appeals 127

SECTION 12 APPEALS FROM THE BOARD OF ZONING APPEALS 128

SECTION 13 DUTIES ON MATTERS OF APPEAL 129

SECTION 14 FEES, CHARGES AND EXPENSES 130

SECTION 15 AMENDMENTS TO THIS ORDINANCE 131
15.1 Process for Ordinance Amendments 131
15.2 Conditional Rezoning or Rezoning 131-132
15.3 Amending Critical Area Classifications and Buffers 132

SECTION 16 PENALTIES FOR VIOLATION 133-136

SECTION 17 DEFINITIONS 137-159

ZONING MAPS - See separately

SECTION 1
GENERAL PROVISIONS

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 <u>Interpretation of Provisions</u>.

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 <u>Severability</u>. 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 <u>Zoning Maps</u>.

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. 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 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 <u>Replacement of Zoning Maps</u>. In the event that the Official Zoning Maps become damaged, destroyed, lost or difficult to interpret because or 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.

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. Changes must be done in accordance with the Somerset County Critical Area Ordinance.

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 center lines;
b. Boundaries indicated as approximately following platted lot lines shall be construed as following 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 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 center lines;
f. Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (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 (a) through (f) above, the Board of Zoning Appeals shall interpret the district boundaries.

Remainder of page left intentionally blank

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 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 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-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-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.

Remainder of page left intentionally blank

SECTION 4
NONCONFORMITIES

4.1 **Purposes.** This Section 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, 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** - 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 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), 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.

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, 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 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 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 the nonconforming status of the land.

g. A nonconforming use shall not be moved unless the movement would reduce the nonconformity.

4.4 **<u>Nonconforming Structures</u>.** 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, 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 structure may be enlarged or altered in a way which increases its nonconformity except by authority of the Board of Zoning Appeals.

b. Should 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 operations or poultry operations that have not been inactive for more than three (3) years. Existing setbacks for replacement will be extended to a new poultry house to allow consistency on the property and to avoid economic hardship for growers wishing to expand their operations. The footprint of the nonconforming 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 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.

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 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 nonconforming use, but shall without further action be deemed a conforming use in 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 existing yard or lot area may be altered without approval of the Board of Zoning Appeals.

Remainder of page left intentionally blank

SECTION 5
ZONING DISTRICTS

5.1 Enumeration of Districts. 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 Residential 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) Growth Allocation Floating District (GA)

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.
   (1) Agricultural Residential 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) 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) 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) 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) 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) 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) 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) 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) 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) 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) Airport District (AP) - 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.

(2) Overlay Commercial District (O-C) - 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 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 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) - 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 LEED 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 planned unit development is not mapped, which allows for increased flexibility in appropriate locations where necessary infrastructure and services are accessible.

(2) Growth Allocation Floating District (GA) - 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 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. 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.

5.3 Uses Permitted in Each Zoning District. Except as specifically stated otherwise by this Ordinance, only the following uses 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 will only be permitted if there is compliance with all other requirements of this Ordinance.

5.4 Similar Uses and Uses Not Addressed by this Ordinance

a. Closely Similar Use. If a use is proposed that the applicant proves to the satisfaction of the Zoning Administrator would be very closely similar to an allowed use or would fit within a use category, then the Zoning Administrator may at his/her discretion approve the closely similar use in the same manner as the use provided for in this Ordinance. If the Zoning Administrator does not approve 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 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) The use would be closely similar or less intensive in external impacts and nuisances compared to uses that are permitted in that district;
   (2) The use would not create a significant hazard to the public health and safety;
   (3) The use is not specifically prohibited in that district; and
   (4) The 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.

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.

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: - 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 must be setback a minimum of 200 feet from any residential lot, and/or; - An orchard. This use shall not include a slaughterhouse or meat packing plant.	P	P	P	P	P	P	P	P	P	P	P
2.	Farm Brewer, Distillery, or Winery – See Section 5.12.	SE	SE	N	N	N	N	N	N	N	N	N
3.	Fisheries Activities, provided that crab shedding and the manufacture and storage of usable crab-pots and similar items is permitted as an accessory use where the use is allowed, but that outdoor storage of junk or unusable items is not permitted. This does not include on-site retail stores or seafood processing unless the uses are permitted by zoning district regulation.	P	P	SE	SE	N	P	P	P	P	P	P
4.	Aquaculture. 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. The waiver must be filed with the deed.											
	b)	However, 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 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

Remainder of page left intentionally blank

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(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											
	See Section 5.8(g) for mobile/manufactured homes and other homes not meeting development and siting requirements for single family dwellings.	SE	N	N	N	SE	SE	N	N	N	N	N
3.	Mobile/Manufactured Home Park – See Section 5.8(g).	N	N	N	N	SE	N	N	N	N	N	N
4.	Two-Family Dwellings	N	N	N	P	P	P	SE	N	N	N	N
5.	Townhouse	N	N	N	P	P	P	SE	N	N	N	N
6.	Multi-Family Dwellings (Apartments)	N	N	N	SE	P	P	SE	N	N	N	N
7.	Mixed-Use Building, residential, in combination with a permitted commercial use.	SE	N	N	N	N	P	P	P	N	N	N
8.	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
9.[1]	Hunting and fishing cabin on a minimum of 5 acres with a minimum 100' setback from all property lines used only as a temporary residence and not connected to public utilities. No cabin shall be considered a dwelling. A Hunting and Fishing Cabin shall be screened from view from all adjacent properties and public or private rights-of-way as determined by the BZA. See Section 5.7(c)1.	SE	SE	N	N	N	SE	N	N	N	N	N
10.	Accessory Dwelling Unit – See Section 5.10.	P	SE	SE	P	P	P	P	P	N	N	N
11.	Boarding or Lodging House	N	N	N	N	N	N	SE	N	N	N	N
12.	Farm Labor Camp, provided structures are setback a minimum of 200 feet from all lot lines.	SE	N	N	N	N	N	N	N	N	N	N

1 As Amended and Adopted by Ordinance 1174

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
13.	Recreational Vehicle or Travel Trailer licensed by the State as a temporary residence. See Section 5.13. For parking of recreational vehicles, see Section 8.3.	P	SE	N	N	N	N	N	N	N	N	N
14.	Planned Unit Development. See Section 7.4.	P	N	P	P	P	N	N	N	N	N	N

Remainder of page left intentionally blank

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(c) PUBLIC OR INSTITUTIONAL USES												
1.	Camp or Campground, public/commercial or private, for temporary seasonal use (this may include 1 dwelling for caretaker(s)), provided that: a) Buildings and recreational vehicle parking must be separated by a minimum of 100 feet of preserved woods or landscaping from any exterior lot line or public road, b) The applicant 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) The facility is permitted to be inhabited a maximum of 120 days per year by any individual, other than bona fide caretakers.	SE	SE	N	N	N	SE	SE	SE	SE	SE	SE
2.	Cemetery, on a minimum of 10 acres, unless it is accessory to a place of worship on the same lot. Graves and buildings must not be placed in the required minimum front yard	P	SE	P	P	P	P	P	P	P	P	P
3.	Crematoriums must be setback a minimum of 300 feet from a lot line.	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 students and staff, provided that any newly constructed student housing is setback a minimum of 200 feet from any adjacent residential lot 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 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, 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

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
9.	Emergency Services Station	P	P	P	P	P	P	P	P	P	P	P
10.	Environmental Agricultural or Aquaculture Research Center											
	- Involving poultry	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
14.	Museum	P	P	SE	SE	SE	SE	P	P	P	P	P
15.	Continuing Care Retirement Community with a minimum lot area of 2 acres	N	N	SE	SE	P	SE	P	P	P	P	N
16.	Place of Worship (includes Church and 1 dwelling for bona 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 acquire separate approval. A Place of Worship in a residential district must be located adjacent to an arterial or collector road, as opposed to a local or private road. Any vehicle parking area 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

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
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

Remainder of page left intentionally blank

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(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 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 adjacent lot line where there is an occupied 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.											
3.		Antenna, See Section 5.8(m)	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.											

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
4.	Auto Repair Garage or Auto Body Shop, provided: 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; b) Vehicle entrances or exits must be setback a minimum of 50 feet from an adjacent lot line in a residential district; c) Any outdoor overnight storage of junk, scrap or auto parts 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 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).	N	N	N	N	N	N	N	P	P	P	N
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 meet yard 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
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
11.	Campground – See under Public or Institutional Uses above.	-	-	-	-	-	-	-	-	-	-	-

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
12.	Cannabis – within the requirements of Section 5.8(n)	-	-	-	-	-	-	-	-	-	-	-
	a. Growing	N	N	N	N	N	N	SE	SE	SE	SE	N
	b. Processing	N	N	N	N	N	N	SE	SE	SE	SE	N
	c. Selling	SE	N	N	N	N	SE	P	P	N	N	N
	d. On-Site Consumption	N	N	N	N	N	N	N	N	N	N	N
13.	Car Wash	N	N	N	N	N	N	SE	P	P	P	N
14.	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
15.	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
16.	Crafts or Artisan's Studio (other than as home occupation)	N	N	N	N	N	P	P	P	P	P	N
17.	Exercise Club	N	N	N	N	N	N	P	P	P	P	N
18.	Flea Market or Auction House	N	N	N	N	N	SE	P	P	P	P	P
19.	Funeral Home	N	N	N	N	N	SE	P	P	P	P	N
20.	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
21.	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
22.	Hotel or Motel	N	N	N	N	N	SE	SE	P	P	P	P
23.	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
24.	Laundromat	N	N	N	N	N	P	P	P	P	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
25.	Microbreweries, Brewpubs, and Distilleries	N	N	N	N	N	N	SE	SE	SE	SE	N
26.	Offices (other than as home occupation)	SE	N	N	N	N	P	P	P	P	P	P
27.	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 is limited to a maximum floor area of 3,000 square feet.	SE	N	N	N	N	P	P	P	P	P	N
28.	Photo-processing	N	N	N	N	N	N	P	P	P	P	N
29.	Printing or Photocopy, Custom	N	N	N	N	N	N	P	P	P	P	N
30.	Race track (other than go-karts)	N	N	N	N	N	N	N	SE	SE	SE	N
31.	Recreational Vehicle storage and service, temporary facility for uninhabited vehicles.	N	SE	N	N	N	SE	P	P	P	P	P
32.	Recycling Collection Center (see also as industrial or County-owned use)	N	N	N	N	N	SE	P	P	P	P	N
33.	Repair Service, Household Appliance (other than Home Occupation)	N	N	N	N	N	SE	P	P	P	P	N
34.	Restaurant, with drive-through service	N	N	N	N	N	N	SE	P	N	N	N
35.	Restaurant, without drive-through service	N	N	N	N	N	SE	P	P	N	N	N
36.	Retail Store, other than an Adult Use, and provided that in the AR district the retail store is limited to a maximum floor area of 3,000 square feet (See also Section 5.7(g) - Accessory Uses)	SE	N	N	N	N	SE	P	P	N	N	N
37.	Sale or refinishing of bona fide antiques, within a completely enclosed building.	SE	SE	N	N	N	P	P	P	P	P	P
38.	Schools for Hobbies or Trades	N	N	N	N	N	SE	P	P	P	P	P
39.	Stable, commercial, provided there is a 20-acre minimum lot area, and a 200-foot setback for structures from any side and rear lot line, and provided a minimum of 1 acre is provided for each adult animal.	P	P	P	P	P	P	P	P	P	P	P
40.	Tavern	N	N	N	N	N	N	P	P	N	N	N
41.	Target Range for Firearms not including a range operated by an											

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
	individual and used exclusively by the individual and his guests.											
	a) Within a completely enclosed building	P	P	N	N	N	P	P	P	P	P	P
	b) 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
42.	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
43.	Theater, other than an adult use.	N	N	N	N	N	N	P	P	P	P	N
44.	Veterinary Clinic or Animal Hospital, provided all areas used for the keeping of animals outside of a completely enclosed building are setback a minimum of 200 feet from all lot lines.	P	P	N	N	N	SE	P	P	P	P	N
45.	Wireless Telecommunication Facilities – See Section 5.8(m)	SE	N	N	N	N	P	N	P	P	P	SE

Remainder of page left intentionally blank

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(e) INDUSTRIAL USES												
1.	Agricultural or Wood Product packaging or processing, provided that all 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
3.	Composting at a Commercial or Industrial Scale	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:											
	a) Facilities must be setback a minimum of 300 feet from any dwelling, school, place of worship, or day care center, and total storage must not exceed 120,000 gallons, except that no maximum shall apply within the I-1 or I-2 districts.	N	N	N	N	N	N	N	SE	SE	SE	SE
7.	Grain and Livestock feed, storage, sale and milling of (other than as listed under "Agricultural Uses"), and sale of solid fuel, provided 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

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
		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
	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
12.	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 is 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

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
	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
14.	Oil or Gas Drilling, provided that drill sites are setback a minimum of 200 feet from a dwelling on 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 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 the setback may be reduced to 200 feet if within an enclosed building and if the applicant proves to the Zoning 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 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

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
27.	Trucking Terminal	N	N	N	N	N	N	N	N	P	P	N
28.	Solar Energy Generation Station Systems that produce more than 1MW of electricity for the whole market.	-	-	-	-	-	-	-	-	-	-	-
	- Generating less than 5MW	P	P	P	P	P	P	P	P	P	P	P
	- Generating 5MW or more	P	P	P	N	N	N	N	N	N	P	P
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
32.	Wind Energy Systems (as a principal use)	N	N	N	N	N	N	N	N	N	N	N

Remainder of page left intentionally blank

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(f) MISCELLANEOUS USES													
1.		Parking Lot as the Principal Use of a Lot	N	N	N	N	N	P	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	P
	a)	Structures and uses must not be located within 100 feet 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 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.											
3.		Sewage treatment, centralized facilities, provided facilities are setback a minimum of 600 feet from any adjacent lot line where there is an occupied 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
6.		Special Events – A gathering/event of people that is limited to 72 consecutive hours.	P	P	P	P	P	P	P	P	P	P	P

Remainder of page left intentionally blank

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(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 1 motor vehicle 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 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	SE	SE	SE	SE	SE	SE	SE	SE	N	N	N
8.	Farm machinery Repair, in addition to machinery of resident of property.	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.	*	*	*	*	*	*	*	*	*	*	*
10.	Parking of 2 or more motor vehicles that do not display current State registration, outside of an enclosed building, on a residential lot of less than 5 acres.	N	N	N	N	N	N	-	-	-	-	-
11.	Offering for sale 1 or more motor vehicles at a time as accessory to a dwelling in a residential district.	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	P	P	P	P	P	P	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
	abandonment of the construction work.											
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.	SE	N	N	N	N	SE	N	SE	SE	SE	SE
15.	Small Wind Energy System, as an accessory use. See Section 5.8(j).	P	N	P	P	P	P	N	N	N	N	N
16.	Accessory Solar Energy Station, as an accessory to a residential, Commercial, or Industrial use and generating no more than 2 MW of electricity. Ground mounted accessory solar energy systems must be visually shielded from public rights of way and occupied dwellings on adjacent lots.	P	P	P	P	P	P	P	P	P	P	P
17.	Energy Storage Device – See Section 5.8(o)	P	P	P	P	P	P	P	P	P	P	P

Notes for the Table of Uses Permitted in Each Zoning District

* 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.

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.

(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 is 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 is only allowed where it is specifically listed as permitted under Section 5.7.

(4) The use must not operate between the hours of midnight and eight (8) a.m.

(5) The application for the use must 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.

(6) The use of operations are in compliance with all applicable law.

(7) A two (2)-acre minimum lot area is required.

(8) A fifty (50) foot wide vegetative buffer is required along the side and rear lot lines. Security fencing must be placed along the side and rear lot lines.

(9) Pornographic material, displays, or signs must not be visible to persons outside of the establishment.

(10) Zoning approval is conditioned upon compliance with applicable Federal, State, and County law, including any valid prohibitions on sale or display of obscene material.

(11) For public health reasons, private or semi-private viewing booths are prohibited.

(12) No use is permitted to involve live actual or simulated sex acts or any sexual contact between entertainers or between entertainers and customers.

(13) Any person conducting a massage within a massage parlor must remain fully clothed.

Remainder of page left intentionally blank

b. Bed and Breakfast Inn.

(1) Bed and Breakfast inns must not have more than five (5) guest units. No guest unit shall accommodate more than three (3) adults.

(2) 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 group domiciliary care home 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 group domiciliary care home shall not include any use meeting the definition of a "Treatment Center."

(4) The facility must have adequate staff supervision for the number and type of residents.

(5) The applicant must provide evidence of any applicable Federal, State or County licensing or certification to the Zoning Administrator at the time of application.

(6) The group domiciliary care home must register in writing its location, general type of treatment/care, maximum number of residents, and sponsoring agency with the Zoning Administrator.

(7) Any medical or counseling services must be limited to a maximum of three (3) non-residents per day. Any staff meetings must be limited to a maximum of five (5) persons per day.

(8) A minimum of one (1) off-street parking space must be provided per on-site employee, plus one (1) space for every two (2) residents reasonably expected to be able to drive a vehicle. See also Section 8.

(9) If a group domiciliary care home is in a residential district, its appearance must be maintained in a state that is closely similar to nearby dwellings, and no sign is permitted to identify the use.

(10) In compliance with the definition of Family, a group domiciliary care home 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 must meet the following requirements:

(1) No product 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 are permitted to occur on-site of an industrial 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 three (3) persons is permitted to work on-site as part of the home occupation. However, the maximum 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 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 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. Sign(s) are limited to two (2) square feet on each of two (2) sides.

(8) The use must not be open to the public between nine (9) p.m. and seven (7) a.m.

(9) A maximum of two (2) trucks is permitted to operate from the lot for business purposes, in addition to any trucks used for agricultural operations. The use is not permitted to routinely require deliveries or pickup of items by tractor-trailer trucks.

(10) Home Occupations are permitted by right, except special exception approval by the Board of Zoning Appeals 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). Motor vehicle repair is not allowed in the R-1 District.

(11) For outdoor lighting, see Section 8.14.

Remainder of page left intentionally blank

e. Junkyard and Salvage Yard. Junkyards and salvage yards where permitted, must meet the following standards:

(a) All storage of junk must be setback a minimum of fifty (50) feet from every public road right-of-way and lot line and be completely fenced. The fence must be securely built and have a minimum height of eight (8) feet. A visual barrier at least six (6) feet in height is required to screen views of the junkyard from public roads and adjacent lots. Visual barrier(s) may utilize topography, landscaping or opaque fencing, but must not utilize junk or sheet metal.

(b) Junk is not permitted to have a height greater than fifteen (15) feet above the ground. Fences must be kept neat, unobtrusively painted, and in good condition.

(c) No used parts, wrecked vehicles or other junk 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 must be removed from junk vehicles. Substances must be stored on an impervious surface that prevents contamination of groundwater.

(f) The applicant 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 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 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 condition it requires.

(3) Excavation of property for the purpose of establishing a sand and gravel pit is not permitted to commence until a certified County Grading Permit and Sediment Control Plan has been approved by all applicable Local, State, and Federal agencies.

g. Mobile, 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. Make sure that these homes are compatible with nearby site built housing and the character of the zoning district;

iii. Recognize that newer higher quality double-wide units can be constructed in a manner that is closely similar in appearance to site built homes;

iv. Require 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.

(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 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 Administrator to allow categorization, including a photograph or manufacturer's brochure and specifications for the dwelling and the foundation. (Note: The Zoning 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 (R-3) and Maritime Residential Commercial (MRC).
iii. By Special Exception in Agricultural Residential (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) 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 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.
vii. Any mobile/manufactured homes can be placed on a lot at the discretion of DTCS.
viii. Any mobile/manufactured home over 10 years of age will require a third-party inspection to insure structural integrity and code compliance.

(7) <u>Dimensional and Siting Requirements</u>.
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, 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 Zoning Administrator or as required by the Board of Zoning Appeals. 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.

Remainder of page left intentionally blank

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) The applicant 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 require an additional special exception approval.

(2) The applicant must prove to the satisfaction of the Board of Zoning Appeals that the use will involve adequate on-site supervision and security measures to protect public safety.

(3) The 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.

Remainder of page left intentionally blank

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 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 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 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 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

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.

Remainder of page left intentionally blank

k. Solar Energy Generation Station

(1) Purpose. Solar Energy Generation Systems are allowed, as a principal use of a lot.

(2) Applicability. Applies only to a solar energy generation station that;

i. Has the capacity to produce more than 1 megawatt of electricity as measured by the alternating current rating of the systems inverter;
ii. Is designed to produce electricity for sale on the wholesale market or for a community solar generating system;
iii. Complies with State law for aggregated net metering; and
iv. Is not located on a rooftop, carport, or brownfield site or behind the meter of a retail electric consumer.

(3) Considerations.

i. A solar energy generating station with an operating capacity less than 5 megawatts as measured by the generating systems inverter shall be a permitted use.
ii. A solar energy generating station with the operating capacity of 5 megawatts or more as measured by the generating systems inverter may not be located on any lot, parcel, or tract of land that is located within:
    (a) A Tier I or Tier II locally mapped and designated growth area; or
    (b) Any area zoned R-2 Medium Density Residential, R-3 High Density Residential, MRC Maritime-Residential-Commercial, C-1 Mixed-Use Village, C-2 General Commercial, or I-1 Light Industrial districts.

(4) Bulk Regulations.

i. Solar energy generating stations must be setback one hundred (100) feet from adjacent property lines, not including property lines that bisect the interior of the project area, and one hundred and fifty (150) feet from the nearest wall of a residential dwelling.
ii. All components of a solar energy generating system including underground wiring must be setback at least one hundred (100) feet from a cemetery or graveyard.
iii. A proposed solar energy generating station and any accessory structure associated with the system must have an average height of not more than 15 feet.
iv. With respect to the site on which a solar energy generating station is proposed for construction, the owner of the solar energy generating station shall:
    (1) Minimize grading to the maximum extent possible; and
    (2) Meet all state site grading standards
v. The owner of any solar energy generating station, shall post for the first five (5) years of the life of the solar energy generating station, a landscaping bond equal to 100% of the total landscaping cost.

(1) The county shall hold the entirety of the landscaping bond for five (5) years.
(2) The county shall release 50% of the landscaping bond if, on inspection, the vegetative protections meet a 90% survival threshold.
a. The remainder of the bond will be released after an additional two (2) years, on further inspection and confirmation that the vegetative protections continue to meet a 90% survival threshold.

vi. An application for a solar energy generating station shall include a viewshed analysis for any area, structure, or site in a preservation area, rural legacy area, priority preservation area, public park, scenic river or byway, designated heritage area, or historic structure listed on or eligible for the National Register of Historic Places or relevant County register of historic places.

vii. An applicant shall provide notice of each proposed solar energy generating station to the county's emergency response service. Included with the notice will be a map of the proposed generating station and the proposed location if any solar collector and isolating switch.

(5) Visual Standards. Solar energy systems must be visually shielded from all property lines, locations of the exterior boundary for the solar energy generating station where existing wooded vegetation of 50 feet or more in width does not exist, or an alternative location within the boundary for the solar energy generating system if the owner demonstrates that the alternative location would maximize the visual screening. All landscaping must be specified in a landscaping plan prepared by a qualified landscape architect, and must conform to all state regulations including;

i. Visual buffer shall provide for four-season visual screening of the solar energy generating system;
ii. Landscaping will be placed between any fencing and the public view;
iii. The landscaping screening must include multi-layered staggered rows of overstory and understory trees and shrubs that are a mixture of evergreen and deciduous;
iv. All plantings must be predominantly native to the region;
v. All plantings must be more than four (4) feet in height at planting;
vi. All plantings must be designed to provide screening or buffering within 5 years of planting; and
vii. The plantings shall me maintained with a 90% survival threshold for the life of the solar energy generating system through a required maintenance agreement which will include a watering plan.

(6) Lighting. Except as required by law, for safety, or for emergency, the solar energy generating system may not emit visible light during dusk to dawn operations. This paragraph does not apply to:

i. Equipment necessary for interconnection with the electric system, or;

ii. Solar energy generating systems located on land that is also used for agricultural purposes.

(7) Fencing. Fencing shall be required around the perimeter of the solar energy generating system. All fencing shall be located between the solar energy generating system and the landscaping buffer. All fencing shall;

i. Be non-barbed wire fencing, except;
   (a) When substations or other critical infrastructure warrants barbed wire for protection of the infrastructure.
ii. Not more than 20 feet in height;
iii. Utilize only black or green vinyl wire mesh if the owner proposed to use chain link fencing; and
iv. Be located not less than fifty (50) feet away from the edge of any public road right-of-way

(8) Decommissioning. The owner of Solar Energy Generating System shall comport with State law.

(9) Signage. Signage is required for each solar energy generating system that notifies the public of the facility as a means to contact the facility owner for issues. In the event the contact information is no longer applicable, new signage with up-to-date contact information is required.

(10) Glare. In the event a glare is identified by the Department of Technical and Community Services, the owner of the solar energy generating 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.

(11) Public Hearings. Due to Somerset County's classification as an overburdened and underserved community, any applicant for a solar energy generation station will be required to hold at least two public hearings in the community. The hearing will be organized in partnership with the County and Public Service Commission. The meetings will be held to collect community feedback, and to provide opportunities to address community feedback.

Remainder of page left intentionally blank

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.

(a) A thirty (30) foot wide landscaped vegetative buffer 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.

(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.

(a) A thirty (30) foot wide landscaped vegetative buffer 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 operation may be the same as for the existing poultry houses.

(c) For replacement poultry houses on an existing poultry 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.

Remainder of page left intentionally blank

m. Antennas and Wireless Telecommunication Facilities

i. Purpose. To provide for the effective management, control and review of telecommunications uses, including towers, antennas, and related wireless equipment and structures

ii. Application. Applications for the addition of telecommunications equipment to existing structures or for new monopoles, freestanding towers, and guyed towers shall include the following:

(a) A wind load analysis conducted by a qualified engineer.

(b) A certificate by a qualified engineer attesting to the structural integrity of the existing structure and the projected effects resulting from the addition of the proposed equipment.

(c) A certificate of compliance attesting the fact that the proposed equipment meets or exceeds FCC and ANSI standards on radiation emissions.

(d) A complete description of the impact, and a detailed plan for avoiding, minimizing, mitigating or buffering the effects of the proposed use from the following natural resources: steep slopes, wetlands, stream corridors, forests, and habitats of threatened or endangered species.

(e) A complete description of the impact and a detailed plan for avoiding, minimizing, mitigating or buffering the effects of the proposed use from any area of local, regional or national historic or cultural significance.

(f) Justification of necessity.

(g) Supporting evidence regarding the proposed equipment's effects upon adjacent and adjoining property values.

(h) A detailed description assessing the impact that the proposed equipment will have upon aviation and overall visibility. Proof of compliance with all FAA requirements relating to lighting, siting, height, and visibility shall be required prior to final permitting.

(i) For additions to existing structures of telecommunications facilities that have the effect of increasing the overall height of the existing structure, documentation that establishes that the applicant performed a diligent search for a suitable site that did not have the effect of increasing the height of existing structures.

(j) For new monopoles, freestanding towers and guyed towers, documentation that establishes that the applicant performed a diligent search for a suitable existing structure.

iii. Provisions. Subsection 2 (a) through (j) above shall not apply where additions to existing structures do not increase the overall height and the equipment will be located within the existing fenced area or compound.

iv. Standards. Monopoles, freestanding towers and guyed towers approved after the adoption of this section shall comply with the following:

(a) Minimum Lot Requirements. Lot area and lot dimensions shall be a function of the minimum setback required and are stablished as follows:

a. For monopoles, the minimum structure setback shall be the height of the monopole plus 50 feet.

b. For towers over 200 feet in height, the setback shall be:

i. One foot for every one foot of height up to 200 feet; and

ii. One and one-half feet for each one foot of tower height exceeding 200 feet.

c. For all other towers, the minimum setback shall be 1 ¼ times the height.

(b) Siting Requirements. There shall be a minimum separation distance of:

a. One thousand feet from the nearest existing residential structure on an adjacent parcel;

b. Two thousand feet from all existing schools, day-care centers, nursing homes, and long-term care facilities; and

c. Five thousand feet from any property designated on the National Historic Register.

(c) Lighting requirements. No lighting shall be required or permitted, except what is specifically required by the FCC, FAA, or another relevant state or federal agency; additionally, in instances where the FCC or FAA require day-time high-intensity strobe lighting, a set of red marker lights shall be installed for nighttime use. All strobe lights shall be turned off at twilight.

(d) Screening and security requirements. A fence with a minimum height of eight feet shall be installed around the perimeter of the tower base. All equipment shall be located within this fenced area. The fence shall have an access gate which shall be kept in a locked condition at all times except when servicing is required. The fence shall be equipped with additional entrance prevention devices as necessary to prevent compound access by unauthorized personnel. There shall be an additional screening requirement consisting of a buffer of sufficient width containing native plantings capable of effectively screening the fenced enclosure.

(e) Additional provisions. All obsolete or unused towers and equipment shall be removed at the owner's expense within 12 months of the cessation of use.

v. The Board of Appeals may, as part of the special exception, modify the lot area, lot dimensions or siting requirements specified herein.

n. Cannabis

i. A cannabis business may not locate within:

(a) 500 feet of a pre-existing primary or secondary school in the state;

(b) 500 feet of a pre-existing licensed child care center or registered family child care home, a playground, recreation center, library, place of assembly or public park;

(c) 2,640 feet of another cannabis business; or

(d) 100 feet of a pre-existing residence.

ii. A cannabis on-site consumption establishment is prohibited within Somerset County.

iii. A cannabis business not enumerated as a permitted use in 5.7(d)(12) is prohibited within Somerset County. A licensed grower cultivating cannabis, exclusively outdoors and in an area zoned only for agricultural use, shall comport with state law and the separation requirements set forth in subsection (1).

iv. The separation requirements enumerated above shall be measured from the boundary of the real property owned or leased by an entity in subsection (1). A primary or accessory structure of a cannabis business may not locate within the respective separation areas.

v. The Board of Appeals may modify the separation requirements in subsection (1) by special exception.

Remainder of page left intentionally blank

o. Energy Storage Devices

i. Purpose. These standards shall apply to any structure, including all related buildings and appurtenances, designed and used for storing energy.

ii. Applicability. Applies only to devices that are not located within the boundaries of an existing electrical generating system.

iii. Bulk Regulations. Energy Storage Devices must be setback one-hundred (100) feet from adjacent property lines, not including property lines that bisect the interior of the project area, and one-hundred and fifty (150) feet from the nearest wall of a residential dwelling, or compliant with COMAR regulations, whichever is more restrictive.

iv. Visual Standards. An owner of an energy storage device, that is not constructed at a commercial or industrial site shall:

(a) Provide non-barbed wire fencing around the energy storage device that is not more than 20 feet in height.

a. Barbed wire fencing may be used around critical infrastructure or substation for protection if desired.

(b) Provide a landscaping buffer or vegetative screening that shall:

a. Be not more than twenty-five (25) feet in depth, and;

b. Provide for four-season visual screening of the energy storage device.

(c) Comply with State law and regulations for site grading.

v. Public Hearings. Due to Somerset County's classification as an overburdened and underserved community, any applicant for an energy storage device will be required to hold at least two public hearings in the community. The hearing will be organized in partnership with the County and Public Service Commission. The meetings will be held to collect community feedback, and to provide opportunities to address community feedback.

Remainder of page left intentionally blank

5.9 <u>Additional Requirements in the "AP" Airport District</u>. 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 terms in Section 16.

5.10 <u>Accessory Dwelling Units</u>.

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. <u>Location</u>. 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. <u>Purpose</u>. 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. <u>Design Standards</u>.
    (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) <u>Creation</u>. 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.

(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.

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 <u>Farm Breweries, Distilleries, and Wineries</u>.

a. <u>Statement of Intent</u>. 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. <u>Standards</u>.
(1) Farm breweries, distilleries, or wineries will only be considered for properties zoned Agricultural Residential ('AR') or Conservation District ('CO') by special exception from the Board of Zoning Appeals.
(2) Future changes to the site layout, footprint, 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.

5.13 Recreational Vehicle, Travel Trailer, or Tent as a Temporary Residence[2]. See also Section 8.3 for 'Parking of Recreational Vehicles or Equipment.' No recreational vehicle, travel trailer or tent shall be the principal use of a parcel or lot.

a. Seasonal Use: A property owner may place a recreational vehicle or travel trailer on a lot or parcel for temporary seasonal use as enumerated below:
   (1) The recreational vehicle or travel trailer must be properly titled and licensed for on-road travel;
   (2) No more than one (1) is permitted to be placed on a lot or parcel;
   (3) Occupancy is not permitted to exceed a maximum of sixty (60) days in a year, and shall not exceed 14 consecutive days;
   (4) Must be self-contained or suitable sanitary facilities must be provided;
   (5) A visible placard at least 8.5" by 11" in size must be posted and visible from the right-of-way at all times that states when the recreational vehicle or travel trailer was approved by the county;
   (6) If located along U.S. Route 13, or MD Route 413, a visual buffer is required and subject to approval by the zoning administrator. Along all other public rights-of-way, a visual buffer may be required.
   (7) The minimum lot size is five (5) acres;
   (8) Recreational vehicles or travel trailers may only be permitted on a lot or parcel between September 1st and February 10th. At the end of hunting season, the recreational vehicle or travel trailer must be removed from the lot or parcel;
   (9) A zoning certificate must be obtained each successive year, with all required fees paid;
   (10) A financial surety is required to ensure removal of the recreational vehicle or travel trailer.
   (11) No electrical service is allowed, either on a temporary or permanent basis.

b. Active Building Permit: An active building permit for a residence must be obtained before placing a recreational vehicle or travel trailer on the lot or parcel.

Remainder of page left intentionally blank

2 As Amended and Adopted by Ordinance 1174

SECTION 6
BULK REGULATIONS

6.1 Lot Requirements.

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.

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.

c. 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. 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.

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.

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.

g. 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 Administrator) must be placed on the final plat and 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."*

Remainder of page left intentionally blank

6.2 Table of Height, Area, and Dimensional Standards, other than Attached Housing.

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

ZONING DISTRICT	MINIMUM LOT			MINIMUM YARD			MAXIMUM HEIGHT (feet)
	LOT AREA (square feet)	LOT WIDTH (feet)	LOT DEPTH (feet)	FRONT YARD (feet)	EACH SIDE YARD (feet)	REAR YARD (feet)	
Agricultural Residential AR	43,560 (1 Acre)	100’	100’	40’	10’	30’	35’
Conservation CO	217,800 (5 Acres)	200’	200’	40’	20’	35’	35’
Low Density Residential R-1	20,000	85’	100’	30’	10’	35’	35’
Medium Density Residential R-2	10,000	80’	100’	30’	8’	25’	35’
High Density Residential R-3	8,000	80’	100’	25’	8’	25’	35’
Maritime Residential Commercial MRC	8,000	80’	100’	20’	8’	25’	35’
Mixed Use Village C-1	3,000	15’	-	20’	5’	25’	40’
General Commercial C-2	10,000	60’	-	40’	15’	25’	45’
Light Industrial I-1, or General Industrial I-2, or Airport AP	20,000	80’	-	40’	15’	35’	45’
Overlay Commercial O-C	10,000	60’	-	40’	15’	25’	45’

6.3 Height Regulations.

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.

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.

(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.

6.4 <u>Corner Lots</u>.

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 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 the lot shall have less than half the full depth required generally.

6.5 <u>Reduction of Front Yard; Corner Lots</u>.

(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) 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.

(3) In the case of corner lots with more than two (2) frontages, the Zoning 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 the lot shall have less than half the full depth required generally.

(4) Required yards along zoning district boundary lines shall be that of the most restrictive district.

6.6 <u>Yard Setback Modifications</u>.

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 <u>Visibility at Intersections</u>.

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.

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 **Accessory Structures.** Accessory structures shall meet the requirements of 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) A maximum height of twenty (25) feet,
   (2) A maximum floor area of 1,200 square feet, and
   (3) Are not adjacent to a public street. The reduced minimum eight (8) 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.

Remainder of page left intentionally blank

6.9 <u>Standards for Attached Housing</u>.

a. Where permitted, the following dwelling types shall meet the following dimensional standards.

Minimum					
Dwelling Type	**Lot Area Per Dwelling Unit**	**Lot Width**	**Front Yard ***	**Side Yard, Each, Where Detached ****	**Rear Yard**
Two Family Detached Dwelling					
In R-2 District	6,000	80’	25’	8’	25’
In Other Districts	5,000	80’	25’	8’	25’
Townhouses					
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					
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 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.
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. 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.

(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. 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.

f. Only housing types that would otherwise be permitted in the applicable district regulations shall be permitted within a Cluster Development.

g. 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 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 plan for the property.

(2) The yield plan shall be a level of detail typically found in a sketch plan, including showing potential lots and roads, known floodplains and suspected wetlands. The yield plan 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 sketches, but new septic systems shall not be assumed to be possible in areas with obviously severe limitations.

h. The yield plan shall be reviewed by the Zoning Administrator or Director of 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 estimates are determined to not be accurate, the applicant shall be required by the Zoning Administrator to revise the yield plans.

i. Based upon the County-accepted yield plan, 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.

j. The Cluster Development Option shall not be combined with the Transfer of Development Rights.

Remainder of page left intentionally blank

SECTION 7

OVERLAY AND FLOATING DISTRICTS

7.1 Airport Overlay District (AP).

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.
   (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 nonconformity, 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.

7.2 <u>O-C Overlay Commercial District</u>.

a. <u>Applicability</u>. 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 August 6, 2019.
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.
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, the requirements of the underlying zoning district shall apply instead of the requirements of this O-C district.
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. The following additional requirements shall apply within the O-C district:
   (1) A minimum of one deciduous shade tree must be planted for every 3,000 square feet of new impervious surface. Trees shall be planted within and adjacent to buildings and paved areas.

(2) The applicant 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 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 are permitted within the development.
(5) No new commercial building or truck loading dock 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 must be landscaped in trees and shrubs or remain forested.
(7) The applicant 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 must provide a conceptual sketch plan showing all land that the applicant owns, equitably owns, or otherwise controls in the vicinity. The sketch plan must show a proposed system of traffic access that would allow efficient and coordinated access to all 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.

7.4 **Planned Unit Development Floating Zone (PUD).**

a. Applicability. A 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 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 Residential (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 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 is no minimum lot size for individual structures nor 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 planned unit development 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 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 open 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 preserved open 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 planned unit development:

(a) Dwelling units may include single family (detached or semi-detached), townhouse and multi-family structures.

(b) Mixed use buildings that may include business and/or commercial uses on ground floors and residential uses above.

(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 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 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 planned unit development application; and
3. The applicant 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 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 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 under-lying zone, plus a twenty (20%) percent dwelling unit density bonus.

(4) Sewage and Water Facilities. Prior to accepting a development plan for a 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 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 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 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 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 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 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 is permitted.

7.4.1 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 Administrator. A vicinity map shall also be included at an appropriate scale (such as one inch equals one mile (1" = 1)).

(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 planned unit development addresses goals and objectives of the CBCA Program is required. The Critical Area boundary and the one-hundred (100) 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 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 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 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, must also be provided. The developer should include various means by which the residents living in the 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 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 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 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 Review.

a. Conference. A pre-submittal conference with the Department of Technical and Community Services (DTCS) is required at which time, procedures, planned unit development standards, zoning, environmental issues, and the subdivision of land will be discussed. Compatibility of the 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 sketch 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 Administrator and appropriate staff of DTCS.

(2) The sketch 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 sketch plan review stage.

b. Planned Unit Development Preliminary Plat. The first formal application for a 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. 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 planned unit development in the same manner as a subdivision as provided in the Subdivision Ordinance.

c. 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 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.

(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 planned unit development in the completion of the project.

d. 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.
   (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 must be met prior to recording.
   (3) Upon approval, the 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 planned unit development.

e. "Minor Planned Unit Developments." Planned unit developments which are proposed for urban infill, and other sites difficult to develop, on fifteen (15) acres of land qualify as "Minor planned unit developments." Also qualifying are additions to or areas immediately adjacent to existing planned unit developments. For these minor 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 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 approval 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 approval 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 planned unit development approval by the Planning Commission.

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

7.6 <u>Procedure for Floating Zone District Approval</u>.

a. <u>Application</u>**.** Application for a floating zone district approval is required to be submitted to the Board of County Commissioners for referral to the Planning Commission. 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. <u>Public Hearings</u>. 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.

c. <u>Planning Commission Review</u>. The Planning Commission, after holding a public hearing, shall make an analysis of and recommendation concerning the proposed floating zone district to the County Commissioners.

d. <u>Board of County Commissioners Decision</u>. The County Commissioners, upon consideration of the recommendations of the Planning Commission, may approve a floating zone district when it finds that the proposed district satisfies the purposes and standards of this section, including the following:

(1) All necessary infrastructure for the proposed development is or will be made available to the district at the time and location required.
(2) The proposed district will not adversely affect the health, safety, and general welfare of residents or workers in the area.
(3) The proposed district is compatible with and will not be detrimental to the use or development of adjacent properties or the general neighborhood.
(4) The proposed development has been designed so as to minimize possible adverse effects on adjacent properties or on the immediate surrounding area.
(5) The proposed development will not adversely affect the transportation network or unduly burden water, sewer, schools, parks, stormwater management areas, including streams or other public facilities.
(6) The proposed development will not adversely affect the environmental or historical assets of particular interest to the community as may be identified in any adopted plan of the county.

e. 'Change or Mistake' Rule Does Not Apply. It shall not be necessary for the applicant to show a mistake in the original zoning district boundaries or a change in the character of the neighborhood in order for the Board of County Commissioners to approve the floating zone district request.

f. Upon final approval by the Board of County Commissioners, the floating zone district boundary line shall be shown on the Official Zoning Map.

Remainder of page left intentionally blank

SECTION 8

GENERAL REGULATIONS

8.1 Off-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 must be provided and maintained on the same lot with the building or use, at least one (1) additional loading space for each twenty-thousand (20,000) square feet of gross floor area or major fraction thereof.

b. Each loading space must be not less than ten (10) feet in width forty-five (45) feet in length and fourteen (14) feet in height. Loading spaces may occupy all or any part of any required yard or court except a front yard.

c. 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- Street Parking.

a. In all districts, space for parking and storage of vehicles shall be provided. An off-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 must not encroach upon any public way. Every off- street parking area must be accessible from a public way. Parking areas 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 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. 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 1 bedroom or is an efficiency unit. *Note: If desired, 1 space may be in a garage and 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 5.8(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. <u>COMMERCIAL USES:</u>		
All commercial uses, as applicable, 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 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
D. INDUSTRIAL USES:		
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 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 must include a minimum of one (1) handicapped space. The following number of handicapped spaces 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 must be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts must be provided as needed to provide access from the handicapped spaces.

(3) Minimum Size. Each required handicapped parking space must be eight (8) by eighteen (18) feet. In addition, each space must be adjacent to a five (5) foot wide access aisle. 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 must have an adjacent access aisle of eight (8) feet width instead of five (5) feet.

(4) Slope. Handicapped parking spaces must be located in areas of less than six (6%) percent slope in any direction.

(5) Marking. 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.

8.3 Parking of Recreational Vehicles and Equipment as an Accessory Use to a Residence[3].

See also Section 5.13 'Recreational Vehicle, Travel Trailer or Tent as a Temporary Residence'

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 improved with an occupied residence in all 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 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. 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 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

3 As Amended and Adopted in Ordinance 1174

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. 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.

8.5 <u>Waterfront Development Requirements</u>.
See Critical Area Ordinance.

8.6 <u>On-site Signs</u>. 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. <u>Signs for Allowed Principal Non-Residential Uses in Districts Other than C-1, C-2, I-1 and I-2 Districts</u>. (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 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 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 is prohibited.
vi. The sign 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. 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:
i. The sign shall be programmed so that a message or image on the sign changes no more than once every eight (8) seconds.
ii. The maximum duration of the transition of the electronic image or message change shall be no more than two (2) seconds.
iii. Maximum brightness levels shall not exceed 7,500 nits during daylight hours and 500 nits between sunset and sunrise.
iv. Sound is prohibited.
v. The sign must be equipped with an automatic dimming feature.
vi. Limited animation may be permitted only at the discretion of the Director of Technical and Community Services.

c. Sign Setback. All freestanding signs 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 apply:
(1) No flashing, moving, or strobe signs 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 must be maintained in a good state of repair in accordance with the following provisions.
(1) Painted on-site signs must be repainted a minimum of once every three (3) years.

(2) All braces, boards, clips, bolts, supporting frames and fasteners, must be kept free from deterioration, termites, rot, rust, or loosening.
(3) Repairs to damaged on-site signs must be completed within a thirty (30) day period after the date that damage occurred. All debris must be removed and disposed of properly.

h. No sign attached to a building is 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 are 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 Administrator. The sign is only permitted as an accessory to a principal business or to advertise a charitable special event, and is not permitted to be visible more than thirty (30) days in any calendar year.
(1) A permit for a portable sign is required. The Zoning 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. Signs are not permitted to flash nor 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 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 is only permitted in a C-1, C-2, I-1, or I-2 district and if it conforms to the following minimum standards:
(1) It must not be closer than five-hundred (500) feet to any other off-site sign.
(2) It 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 is permitted to be erected within two-hundred fifty (250) feet of any dwelling or residential district.
(4) No flashing advertising is permitted and all lighted off-site signs must be indirectly illuminated nor cause a glare or nuisance to contiguous properties.
(5) No off-site sign is permitted to exceed four-hundred and eighty (480) square feet on each sign surface, and no~~t~~ more than one (1) sign surface is permitted to be visible from any point.
(6) No off-site sign is permitted to exceed thirty (30) feet in height as measured from grade.
(7) No off-site sign surface is permitted to exceed a vertical dimension of fifteen (15) feet.
(8) No off-site sign is permitted to extend into any road, railroad or power line right of way.
(9) Where permitted, off-site signs must be single signs, back to back signs, or 'v' signs.

(10) An electronic sign may be permitted, provided the following criteria are met:

i. The sign must be programmed so that a message or image on the sign changes no more than once every eight (8) seconds.

ii. The maximum duration of the transition of the electronic image or message change shall be no more than two (2) seconds.

iii. Maximum brightness levels shall not exceed 7,500 nits during daylight hours and 500 nits between sunset and sunrise.

iv. Sound is prohibited.

v. The sign must be equipped with an automatic dimming feature.

vi. Limited animation may be permitted only at the discretion of the Director of Technical and Community Services.

vii. 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 11.3.

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 nonconforming off-site signs and subject to the following:

(1) Any 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 applies.

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

a. 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. Signs shall only be posted while the property is actively being offered, and must be removed within ten (10) days after settlement or signing of a lease.

b. Professional name plates must not exceed four (4) square feet in area.

c. 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.

d. 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 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.

e. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, civic, social or fraternal clubs or societies, must not exceed thirty-five (35) square feet in area.

f. A sign advertising a real estate development or subdivision, or any special exception permitted in a residential district 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 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, 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) is permitted only upon written approval by the Zoning Administrator. Signs must be removed within seven (7) days after the conclusion of the event.

i. Signs 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, or which announce "no trespassing", "private road," or similar messages.

Remainder of page left intentionally blank

8.9 <u>Landscaping Standards</u>.

a. <u>General Requirements</u>.
   (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. <u>Landscaping of Commercial, Institutional or Industrial Uses in the C-1 Commercial District</u>. 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. <u>Landscaping of C-2 Commercial District</u>. 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:
      iv. Front: Fifteen (15) feet in width abutting all property lines abutting a street.
      v. Side: Five (5) feet in width abutting all side property lines.
      vi. 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. <u>Landscaping for Industrial Properties</u>. 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.

f. Flexibility in Administration. Somerset County recognizes that due to the uniqueness of any given development, the inflexible application of the landscaping standards set forth herein may result in a development with inadequate landscaping or landscaping far in excess of its needs. Alternative landscaping 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 landscaping requirements set forth herein.

(2) Whenever the Planning Commission allows or requires a deviation from the landscaping requirements, it shall enter on the face of the zoning certificate and/or site plan the landscaping requirement that it imposes and the reasons for allowing or requiring the deviation.

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 <u>Alternative Planting Schemes</u>.

a. <u>Alternatives</u>. 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, brick, concrete, or otherwise architecturally solid fence comprised of the same material throughout. Metal 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.

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 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 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. Conversion of existing buildings which involves less than 2,000 square feet of increased impervious surface;

iii. Home occupations which receive a home occupation permit;

iv. Agricultural buildings; and

v. 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 plans are prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. An index sheet 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 Administrator determines specific information is not necessary to determine compliance with this Ordinance:

(a) Name and address of the owner and developer;

(b) The election district;

(c) North point;

(d) Tax map, 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) 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, 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) Location of any cemeteries or graveyards;

(u) Description, method, and location of water supply and sewerage disposal facilities;

(v) Location, size, and type of all signs;

(w) Location, size, and type of vehicular entrances to the site, including any required acceleration/deceleration lanes;

(x) <u>Computations of:</u>

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.

(y) The name of the zoning district;

(z) Signatures of the applicant, the preparer of the plan, and a signature line for the Planning Commission Chairman;

(aa) Stamps/seals and signatures of any professionals involved in preparing the plan;

(bb) 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. <u>In addition, with a site plan submission, the following plans or information shall be provided, if required under other County ordinances</u>:

(1) Stormwater Management Plan

(2) Sediment and Erosion Control Plan

(3) Forest Conservation Plan, approved FSD and FCP and/or letter of intent.

e. <u>A site plan for a Commercial or Industrial uses shall also include</u>:

(1) Specific uses proposed;

(2) Maximum number of employees for which buildings are designed;
(3) Proposed method of disposal of 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) 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. <u>If Development is in the CA-1 Overlay District, the site plan shall be accompanied by the following</u>:
(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 landscaping will be permanently maintained shall be specified;
iii. The location of all Habitat Protection Areas as identified in the County Critical Area 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) <u>Computations of</u>:
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) <u>Additional Information</u>:

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.

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 approved shall be in violation of this Ordinance. However, the Zoning Administrator or Director of DTCS may approve minor variations, technical adjustments or minor corrections to an approved site plan, if the proposed changes are submitted in writing. Any substantive change that involves matters within the purview of the Planning Commission shall require approval by the Planning Commission.

8.16 Optional Transfer of Development Rights.

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 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 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. 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 sending property.

(6) Third Parties. The right to develop a sending property 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 conservation easement shall be established on the sending property at the time of purchase or donation. In such case, the right to develop dwelling units may be held for a maximum of ten (10) years, before being used on a receiving property(s). The conservation easement 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 transfer of development rights shall not:

(a) Be transferred to a third property who does not control the approved sending property; nor

(b) Be sold to an intermediary for resale outside of the development approval process provided for in this Section.

(7) Clustering. The transfer of development rights is not permitted to be combined with the cluster development option.

c. <u>Definitions</u>.

(1) Sending property. 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 "receiving property" than would otherwise be permitted.

(2) Receiving 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 sending property.

d. Determination of Density.

(1) Yield plans shall be presented for the sending property and the receiving property by the applicant for the receiving property. Yield plans shall be a level of detail typically found in a sketch plan, including showing potential lots and roads, known floodplains, and suspected wetlands. Yield plans shall estimate the number of new dwelling units that could be lawfully constructed on the sending property and receiving property under applicable regulations without any transfer of development rights. Detailed septic perc tests are not required for sketches, but new septic systems shall not be assumed to be possible in areas with obviously severe limitations.

(2) Yield plans shall be reviewed by the Zoning Administrator or Director of 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 estimates are determined to not be accurate, the applicant shall be required by the Zoning Administrator to revise the yield plans.

(3) Based upon the County-accepted yield plans, permission to develop a number of dwelling units may be transferred from the sending property to the receiving property. The potential to develop some or all of the dwelling units may be transferred from the sending property, depending upon the amount of land affected by the permanent conservation easement. 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 the portion of the lot.

(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. 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 transfer of development rights, it shall be permanent, regardless of whether the receiving property is developed, except as follows:

(1) If development approvals for the receiving property expire and the development is not completed, and the owner of the sending property has not received full payment for the conservation easement, then in response to a written request from the owner of the receiving property, the Board of County Commissioners may release some or all of the receiving property from the conservation easement in proportion to the amount of the development that was not built and for which the owner of the sending property was not compensated for, whichever is a lower number of dwelling units. In such case, the right to develop the number of dwelling units shall no longer run with the receiving property.

(2) The conservation easement shall be enforceable by the Somerset County Board of County Commissioners or their designee. The approval to develop the receiving property 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 receiving property 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 transfer of development rights, the development of the receiving property shall comply with all County requirements, except for provisions specifically modified by this Section.

8.17 Stream Buffers.

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 shall not apply within the designated Critical Areas. See 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) foot minimum undisturbed buffer required around non-tidal wetlands under State regulations, or b) the fifty (50) 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 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.

a. Critical Areas. See 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 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.

Remainder of page left intentionally blank

SECTION 9

ADMINISTRATION AND ENFORCEMENT

9.1 Administration and Enforcement.

a. It shall be the duty of the Zoning 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 Director may accomplish all of the same duties as the Zoning 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:

(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.

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 August 6, 2019.

(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. If the Zoning Administrator, or a designee, shall find that any of the provisions of this Ordinance are being violated, the Administrator, or a designee, shall notify in writing the person responsible for violations, indicating the nature of the violation and ordering the action necessary to correct it.

a. The 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) Zoning Ordinance;
   (2) An existing Board of Zoning Appeals order, condition or restriction;
   (3) Nuisance Ordinance;
   (4) Forest Conservation Ordinance;
   (5) Flood Plain Management Ordinance;
   (6) Critical Area Program;
   (7) Subdivision Ordinance;
   (8) 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 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 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, 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 <u>Complaints and Investigations of Violations</u>.

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. 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 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 <u>Zoning Certificate Required</u>. 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 Administrator of a certificate authorizing action.

a. <u>Time Limit</u>. 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. <u>Sewage and Water</u>. 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. <u>Driveway and Drainage</u>. 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.

a. All applications for zoning certificates shall include information as may be required by the Zoning 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) A description of existing or proposed buildings or alterations and uses of building and land;
   (2) Number of proposed dwelling or rental units;
   (3) Conditions existing on the lot, description of the land, and existing and proposed buildings; and
   (4) Plats or scale drawings thereto where determined necessary by the Zoning Administrator in order to properly consider the application; and
   (5) Other 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 Administrator, with a certificate approved or disapproved and signed by the Zoning Administrator. A copy similarly marked and signed shall be retained by the Zoning 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 Nonconforming Uses.

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 is issued therefore by the Zoning Administrator, stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

b. A nonconforming use shall not be changed or enlarged until a zoning occupancy permit has been issued by the Zoning Administrator.

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 certificate. The occupancy certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work.

d. Temporary Certificates.
   (1) A temporary occupancy certificate may be issued by the Zoning Administrator for a period not exceeding nine (9) months during alterations or partial occupancy of a building pending its completion, provided that the temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.
      i. A temporary occupancy 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 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 certificate may be issued by the Zoning 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. Trailers shall be removed immediately upon completion of the work.

e. Records. The Zoning Administrator shall maintain a record of all zoning occupancy certificates. Copies must be furnished upon request to any person.

f. Violation. Failure to obtain a zoning occupancy certificate shall be a violation of this Ordinance and punishable under this Ordinance.

9.8 Time Limits on Zoning Approvals and Permits. 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 activity shall be applied for within two (2) years. Otherwise, approval shall be canceled by the Zoning Administrator, who 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 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 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 may be extended by the Planning Director or designee after receiving a written application for extension.

(1) The extension may be granted if the Planning Director or designee finds that work is delayed by non-issuance of permits, licenses, or other approvals by any governmental agency(s), and that the applicant had diligently and in good faith pursued the issuance of approvals, and that there is a reasonable possibility of the eventual issuance of approvals.

(2) Time limits may be extended for a length of time and with further conditions as the Planning Director or designee deems appropriate.

9.9 Construction and Use to be Consistent with Applications and Approvals.

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 approvals shall be a violation of this Ordinance, unless the variations are approved by the County.

c. For site plans that are required to be approved by the Planning Commission, any changes to site plans shall require 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 Administrator.

Remainder of page left intentionally blank

SECTION 10
BOARD OF ZONING APPEALS PROCEDURES

10.1 Board of Zoning Appeals. 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. 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.

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. Appeals shall be taken within a reasonable time of the decision, not to exceed twenty (20) days, by filing with the Zoning Administrator and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof.

(2) After an appeal is filed, the Zoning Administrator shall transmit to the Board all applicable papers constituting the record.

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 the hearing shall be published in a paper of general circulation or on mass-media and the county website 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.

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 Administrator from whom the appeal is taken and on due cause shown.

Remainder of page left intentionally blank

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.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.

11.2 **Special Exceptions.** Conditions Governing Applications: Procedures. To hear and decide only special exceptions as the Board of Zoning Appeals is specifically authorized to pass on by the terms of this Ordinance, to decide whether special exceptions should be granted and to grant special exceptions with 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 hearings shall be posted on the property for which special exception is sought and notice shall be published in a newspaper of general circulation in the County, at least ten (10) days prior to the public hearing or on mass-media and the county website at least ten (10) days prior to the public hearing.

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 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 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 this Ordinance.

   (2) The Board of Zoning Appeals 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, 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 will not adversely affect 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 effects 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.

h. Persons with Disabilities. After the Zoning 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 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 group domiciliary care 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.

a. 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 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 must provide findings that the requirements of this Section 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 the additional setback or buffer strip be required along their property. 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 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 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 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 the waiver may have a detrimental impact upon the adjoining property(s).
(5) Written findings of fact shall be kept in the County files.

11.4 <u>Decisions of the Board of Zoning Appeals</u>. 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 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 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 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 provided that all applicable fees are paid for a new appeals application.

Remainder of page left intentionally blank

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 the Land Use Article, Annotated Code of Maryland.

Remainder of page left intentionally blank

SECTION 13
DUTIES ON MATTERS OF APPEAL

13.1 It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning 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 the Land Use Article, Annotated Code of Maryland.

13.2 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. Considering adoption or rejection of proposed amendments or the repeal of this Ordinance, as provided by law, and
b. Of establishing a schedule of fees and charges as stated in Section 14, below.

Remainder of page left intentionally blank

SECTION 14
FEES, CHARGES AND EXPENSES

14.1 The County Commissioners shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning certificates, zoning occupancy 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 No certificate, permit, special exception, or variance shall be issued unless or until 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 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.

Remainder of page left intentionally blank

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 the hearing shall be published in a paper of general circulation in the community or posted on the county website and mass-media at least 10 days in advance and in the case of a change in classification of a particular piece of property, said property shall be posted.

c. Whenever a petition requesting an amendment, supplement, or change has been denied by the Board of County Commissioners, the petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.

15.2 **Conditional Zoning or Rezoning.**

a. Upon the zoning or rezoning of any land or lands pursuant to the provisions of the Land Use Article and of this Ordinance, the Board of County Commissioners may impose 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 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 restrictions, conditions, and limitations as herein provided may be imposed upon a zoning or rezoning, of any land, then any violation of 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 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.

Remainder of page left intentionally blank

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 Administrator and his or her designee shall have the option of enforcing this Ordinance under either the provisions established by the Land Use Article of the Annotated Maryland Code, as amended, or under Article 20 of the Public Local Laws of Maryland, as amended.

16.2 The following enforcement provisions shall apply under either the Land Use Article or Article 20:

a. The Zoning Administrator, his/her designee, the Director of the Department of Community and Technical Services and 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 Director of DTCS shall have the authority to waive a fine for a citation that was issued erroneously.

16.3 **<u>Article 20 Enforcement</u>.** 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 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 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 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 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 defendant to appear in District Court on a specified date and time.
   (2) The summons shall specify that the 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 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 defendant shall be liable for the costs of the proceedings in the District Court; and
m. The Court may order the defendant to abate the infraction or enter an order permitting the county to abate any such infraction at the 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 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 **<u>Land Use Article Enforcement</u>**. The County may enforce the provisions of this Ordinance under the applicable enforcement provisions of the Land Use Article of the Annotated Code of Maryland, as amended, which are hereby included by reference.

a. A fine for violation of this Ordinance shall not exceed $500, which may be imposed for each violation.
b. Each day 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 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 the violation at the expense of the violator of this Ordinance.

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

16.6 **<u>Special provisions for Critical Area violations</u>.**

a. See the Critical Area Ordinance.

Remainder of page left intentionally blank

SECTION 17

DEFINITIONS

17.1 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.

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

Accessory Dwelling Unit. 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. The highest point of an airport's useable landing area measured in feet above mean sea level.

Airport Hazard. 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. 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:

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 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 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.

Agrivoltaics. The simultaneous use of areas of land that are maintained in agricultural use in accordance with COMAR 18.02.03 or the Maryland Assessment Procedures Manual for both solar power generations and;

- Raising grains, fruits, herbs, melons, mushrooms, nuts, seeds, tobacco, or vegetables; or;

- Raising poultry, including chickens and turkeys for meat or egg productions; or;
- Dairy productions, such as the raising of milking cows; or;
- Raising livestock including cattle, sheep goats or pigs; or;
- Horse boarding, breeding or training; or;
- Turf farm; or;
- Raising ornamental shrubs, plants, or flowers, including aquatic plants; or;
- Aquaculture; or;
- Silviculture; or
- Any other activity recognized as an agricultural activity under COMAR 18.02.03 or the Maryland Assessment Procedures Manual
- Agrivoltaics does not include apiaries or pollinator habitats.

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.

Baseline Annual Usage. A subscriber's accumulated electricity use in kilowatt-hours for the 12 months before the subscriber's most recent subscription, or for a subscriber that does not have a

record of 12 months of electricity use at the time of the subscriber's most recent subscription, an estimate of the subscriber's accumulated 12 months of electricity use in kilowatt hours.

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

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.

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.

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.

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 saves 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.

Cannabis. The plant cannabis sativa l. and any part of the plant, including all non-synthetically derived, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta–9–tetrahydrocannabinol concentration greater than 0.3 percent on a dry weight basis.

a. Cannabis Business – a business licensed or registered by the Maryland Cannabis Administration to operate in the cannabis industry.

b. Cannabis Consumer – an individual at least 21 years old who purchases cannabis or cannabis products for personal use by individuals at least 21 years old.
c. Cannabis Delivery – a cannabis licensee authorized to deliver cannabis in accordance with a license from the Maryland Cannabis Administration to operate a dispensary.
d. Cannabis Dispensary – an entity licensed by the State of Maryland that acquires, possesses, repackages, transports, sells, distributes, or dispenses cannabis or cannabis products, including tinctures, aerosols, oils, and ointments, related supplies, and educational materials for use by qualifying patients, caregivers, or consumers through a storefront or through a delivery service, based on license type.
e. Grower – an entity licensed by the State of Maryland that cultivates, packages, or distributes cannabis; and is authorized by the Maryland Cannabis Administration to provide cannabis to other cannabis licensees and registered independent testing laboratories.
f. Independent Testing Laboratory – a facility, an entity, or a site that is registered with the Maryland Cannabis Administration to perform tests related to the inspection and testing of cannabis and products containing cannabis.
g. Maryland Cannabis Administration – The Maryland Cannabis Administration, or its successor agency.
h. On-Site Consumption Establishment – an entity licensed to distribute cannabis or cannabis products for on–site consumption other than consumption by smoking indoors.
i. Processor – an entity licensed to transform cannabis into another product or an extract and packages and labels the cannabis product; and is authorized by the Maryland Cannabis Administration to provide cannabis to licensed dispensaries and registered independent testing laboratories.

CBCA. Chesapeake Bay Critical Areas Commission.

Cemetery. Land or structures used for burial or permanent storage of the dead or their cremated remains.

Certificate of Public Convenience and Necessity (CPCN). Means a Certificate issued by the Public Service Commission of Maryland that authorizes the construction and operation of a solar energy generating system as defined by State law.

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.

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.

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.

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, or successor agency

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.

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.

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 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.

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.

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.

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. 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.

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

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.

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.

Family. One (1) or more persons occupying a single housekeeping unit and using common cooking facilities; no 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.

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 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.

Funeral Home. An establishment providing services related to the death of humans.

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 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.'

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.

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.

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 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[4]. A building not exceeding 200sqft in size used for short periods of time solely for recreational purposes and not connected to public utilities. No cabin shall be considered a dwelling.

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.

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

4 As Amended and Adopted in Ordinance 1174

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.

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.

Kennel. 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.
LDA. Limited development areas.

Library. A collection of books, periodicals, manuscripts, and similar materials for free public lending, studying and reading.

LMI Subscriber. A subscriber that is low-income, moderate income, or resides in a census tract that is an overburdened community and/or an underserved community.

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 yards and other open spaces as are herein required. 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.

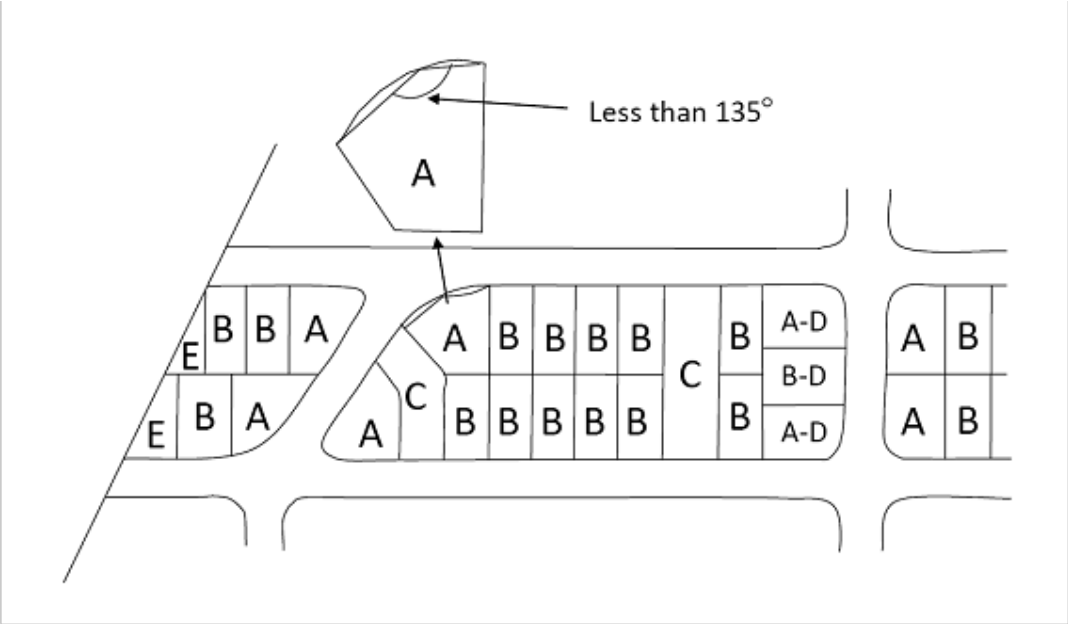
Lot Frontage. The front of a lot shall be construed to be the portion nearest the road. For the purpose of determining yard requirements of corner lots and through lots, all sides of a lot adjacent

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.

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.

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.

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.

Mixed-Use Building. A building that contains a combination of uses such as residential and commercial.

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.

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.
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 the structure lawfully existed prior to the enactment of this ordinance or amendment thereto. 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 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 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.

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.

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 Planned Unit Development is not mapped which allows for increased flexibility in appropriate locations where necessary infrastructure and services are accessible.

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.

Project Area. An area within which construction, materials and equipment storage, grading, landscaping, and related activities for a project may occur. It can also include one ore more contiguous parcels or properties under the same ownership or lease agreement.

Public Service Commission of Maryland (PSC). The Public Service Commission of Maryland or successor agency.

RCA. Resource Conservation Areas.

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.

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.

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.

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 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.

Shoreline 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:

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 is not permitted to be included in computation of surface area.

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 plan 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 Generation Station. A Solar Energy Generating station, Community or a Solar Energy Generating Station, Utility as defined in this section.

Solar Energy Generating Station, Accessory. A solar energy generating station which produces electricity to meet or offset the energy demands of the principal use and is incidental and subordinate to the principal use of a lot, or the main building thereon and located on the same lot or on an adjacent lot under the same ownership.

Solar Energy Generating Station, Community. A solar energy generating system designed to make solar energy accessible to residents or businesses that may be unable or unwilling to install on their properties. Community Solar includes;

- A system that is connected to the electric distribution grid serving the state;
- Is located in the same electric service territory as its subscribers;
- Is attached to the electric meter of a subscriber or is a separate facility with its own electric meter;
- Credits it generated electricity, or the value of its generated electricity to the bills of the subscribers to that system through virtual net energy metering;
- Has at least two (2) subscribers;
- Does not have subscriptions larger than 200 kilowatts constituting more than sixty percent (60%) of its kilowatt-hour output;
- Has a generating capacity that does not exceed five (5) megawatts as measured by the alternating current rating of the systems inverter;
- May be owned by any person, or third-party;
- With respect to the community solar energy generating system, serves at least forty percent (40%) of its kilowatt-hour output to LMI subscribers unless the solar system is wholly owned by the subscribers to the solar energy system.

Solar Energy Generating System, Utility. A solar energy generating system greater than five (5) megawatts that sells electricity through power purchase agreements or into the wholesale electricity market that may require a CPCN.

Special Event. A personal or business social engagements or other activities conducted on a lot where guests assemble for parties, wedding events, birthday or anniversary celebrations, children's parties, corporate and employee appreciation parties, or other similar events for compensation, during which food and beverages may be served to guests and music or other entertainment is allowed.

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 special exceptions are made in this Ordinance.

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

Subscriber. A retail customer of an electric company

Substantially Complete. The definition in the latest version of the International Building Code (IBC) and International Residential Code (IRC) shall apply.

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.

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.

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.

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.

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 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.
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:

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.

Wireless Telecommunication Facilities. A structure, device or apparatus consisting of antennas (including, but not limited to, panels, dishes, and omni-directionals), mounted hardware, and all related equipment necessary to operate various telecommunications systems, including personal communications services (PCS) and cellular transmitting and receiving sites, as well as monopoles, freestanding towers, guyed towers, and other support and elevational assisting devices. For purposes of this chapter, telecommunications uses shall also include television and radio broadcasting facilities.

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 the yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across 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 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 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 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 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 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 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 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.

INDEX

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

Section Number

Additional Requirements for Specific Uses.....5.8
Administration and Enforcement.....9
Adult Uses.....5.8(a)
Agricultural Uses.....5.7
Airport District, Additional Provisions for.....5.9
Amendments to this Ordinance.....15
Attached Housing Standards.....6.9

Bed and Breakfast Inns, additional provisions for.....5.8(b)
Board of Zoning Appeals.....10
  Appeals of Board Decisions.....13
  Decisions of Board of Zoning Appeals.....11
  Procedures.....10
  Special Exceptions.....11.2
  Stay of Proceedings.....10.3
  Variances.....11.3
Commercial Raising of Poultry.....5.8(l)
Corner Lots.....6.4
Critical Area Maps.....1.10
Cluster Subdivisions.....6.10

Definitions.....17
Dimensional Requirements of Each District (Table of Height, Area,
and Dimensional Standards, other than Attached Housing).....6.2
Dimensional Requirements for Attached Housing.....6.9
Disabilities, Accommodations for Persons With.....11.2

Essential Services.....8.4

Fees, Charges and Expenses.....14
Front Yard Reduction.....6.5

Group Domiciliary Care Homes.....5.8(c)
Growth Allocation Floating District.....7.6

Height Limit Exceptions.....6.3
Home Occupations.....5.8(d)

Junkyards.....5.8(e)

INDEX (Continued)

Section Number

Landscaping Standards 8.9
Loading/Unloading Facilities.....8.1
Lot Requirements of Each District 6.1
Lighting Standards 8.14

Mineral Extraction, additional provisions for .....5.8(f)
Mobile Homes, Individual .....5.8(g)
Mobile Home Parks .....5.8(h)

Nonconformities 4
  Elimination of Certain Nonconformities 4.6
  Nonconforming Lots 4.2
  Nonconforming Structures 4.4
  Nonconforming Uses 4.3
  Nonconforming Yards 4.9

Parking Requirements 8.2
Penalties for Violations 16
Planned Unit Developments 7.4

Rare, Threatened and Endangered Species Habitat 8.18

Screening and Fencing 8.13
Signs Permitted in all Districts 8.8
Signs, Off-Site.....8.6
Signs, On-Site 8.7
Site Plans.....8.15
Similar Uses Not Addressed by this Ordinance 5.4
Solar Energy Facilities, Medium .....5.8(k)
Solar Energy Facilities, Utility Scale.....7.5
Special Exceptions 11.2
Stream Buffers 8.17

Temporary Certificates 9.7
Time Limits on Permits, Approvals and Completion of Work.....9.8
Transfer of Development Rights.....8.16
Treatment Centers, additional provisions for.....5.8(i)

Uses, Additional Requirements for Specific Uses 5.8
Uses Not Addressed by this Ordinance 5.4

INDEX (Continued)

Section Number

Variances.....11.3
Violation Complaints.....9.4
Visibility at Intersections.....6.7

Waterfront Development.....8.5
Wind Energy System, Small.....5.8(j)

Zoning Certificates and Permits.....9.5
Zoning Districts:
  AP Airport District, Additional Requirements.....5.9
  Boundary Interpretation.....2
  Dimensional Requirements of Each District.....6.2
  Lot Requirements of Each District.....6.1
  O-C Overlay Commercial District.....7.2
  Purposes of Each.....5.2
  Uses Permitted in Each.....5.3
Zoning Map Amendments.....15
Zoning Occupancy Permits.....9.7